

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB -3 A 9:33
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

FELIZ M. SANCHEZ,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

BY: DEPUTY CLERK
ORDER

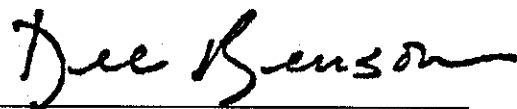
Case No. 2:04-CV-1135

Judge Dee Benson

Before the Court is Petitioner's motion, pursuant to 28 U.S.C. §2255, to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. The Court ORDERS the United States Attorney's Office to respond to the motion to vacate within forty-five (45) days of the date of this Order.

IT IS SO ORDERED.

DATED this 2nd day of February, 2005.



Dee Benson
United States District Judge

3

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-01135

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Feliz M. Sanchez
FCI DUBLIN
#10654-081
5701 8TH STREET CAMP PARKS
DUBLIN, CA 94568

Colleen K. Coebergh, Esq.
DRUG ENFORCEMENT ADMINISTRATION
METROPOLITAN NARCOTICS TASK FORCE
348 E SOUTH TEMPLE
SALT LAKE CITY, UT 84111
EMAIL

Carolyn Pence USB # 9586
Robert B. Denton USB # 0872
Sonia K. Sweeney USB # 9058
Disability Law Center
455 East 400 South, Suite 410
Salt Lake City, Utah 84111
Phone: 801-363-1347
Fax: 801-363-1437
Email: cpence@disabilitylawcenter.org

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

RONALD DECKER, EILEEN GLATHER,
DORIS KING, ROGER MONIA, KENNETH
ROBERTSON, ORLA ZABRISKIE, FRANCES
H. ERICKSON, and a CLASS of Similarly
Situating Individuals (defined hereinafter),

Plaintiffs,

vs.

UTAH DEPARTMENT OF
TRANSPORTATION; JOHN R. NJORD,
Executive Director, UDOT, in his official
capacity,

Defendants.

NOTICE OF WITHDRAWAL
OF COUNSEL SONIA SWEENEY

Case No. 1:01CV0020 B

Pursuant to Rule 4-506 of the Utah Code of Judicial Administration, Sonia
Sweeney hereby withdraws as counsel for the above-mentioned Plaintiffs.

DATED this 18th day of August, 2004.

SO ORDERED

Dee Benson
DEE BENSON
United States District Judge

Sonia Sweeney
Sonia Sweeney
Attorney for Plaintiff

Date February 2, 2005

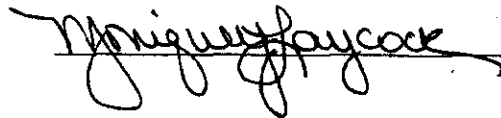
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CLERK, U.S. DISTRICT COURT
FEB 2 2005
2004 AUG 24 P 3:20
BY: [Signature]
DEPUTY CLERK

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gg

CERTIFICATE OF SERVICE

On this 8th day of August, 2004, I mailed postage prepaid via first class mail a true and correct copy of the foregoing **NOTICE OF WITHDRAWAL OF COUNSEL SONIA SWEENEY** to the following:

Jerrold S. Jensen, Assistant Attorney General
Office of Utah Attorney General
160 East 300 South, Fifth Floor
P.O. Box 140857
Salt Lake City, Utah 84114-0857

A handwritten signature in black ink, appearing to read "Monique Paycock", written over a horizontal line.

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:01-cv-00020

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

John P. Pace, Esq.
427 L ST
SALT LAKE CITY, UT 84103
EMAIL

Mr. Jerrold S. Jensen, Esq.
UTAH ATTORNEY GENERAL'S OFFICE
160 E 300 S FIFTH FL
PO BOX 140874
SALT LAKE CITY, UT 84114-0874
EMAIL

2005 FEB -3 A 9:33

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

SCOTT WHATCOTT,

Plaintiff,

vs.

CITY OF PROVO, a municipal corporation.

Defendant.

**MEMORANDUM OPINION &
ORDER**

Case No. 2:01-CV-490

Judge Dee Benson

Before the Court is defendant's Motion to Dismiss or, Alternatively, to Compel Discovery. Having considered the parties' briefs and the applicable law, the Court issues the following Memorandum Opinion and Order.

I. BACKGROUND

In 1999, Plaintiff Scott Whatcott was prosecuted by defendant for violating Provo City's Telephone Harassment Ordinance. Provo City Revised Ordinance § 9/76-9-201. Plaintiff was convicted by a jury of violating the ordinance and was sentenced to serve ten days in jail.¹

¹ The predicate action by plaintiff consists of his calling the home of Anne Nielson and her roommate, Kathryn Convey, and leaving the following message on their answering machine:

I've got this boil on my testicle that just keeps oozing consistently and constantly and it's painful and it's red. It's either that or a third testicle. And I was wondering if like Kathy or Ann[e], if one of you could help me out here, if either one of you could like grab my crotch and just like fondle that third testicle of mine. It's just oozing all over the place, to get their hands kind of greasy. If you have any advice, please, give me a call. You know the number. Thanks. Bye.

Plaintiff appealed his conviction to the Utah Court of Appeals arguing that the Provo City Ordinance was unconstitutional pursuant to the First and Fourteenth Amendments. The Utah Court of Appeals overturned plaintiff's conviction, declaring the Provo City Ordinance to be unconstitutional in violation of the First Amendment both on its face and as applied to plaintiff.²

When the ruling of the Utah Court of Appeals was issued in March 2000, plaintiff was enrolled as a law student at Georgetown Law School. He had completed his second year of

Kathryn Convey was extremely upset by plaintiff's phone message, calling it obscene, lewd and lascivious. *Id.* Her complaint led to Provo City's prosecution of plaintiff and his ultimate conviction.

² Plaintiff was prosecuted under Provo City Revised Ordinance § 9/76-9-201. The specific language of the Ordinance is as follows:

- (1) A person is guilty of telephone harassment and subject to prosecution in the jurisdiction where the telephone call originated or was received if with intent to annoy, alarm another, intimidate, offend, abuse, threaten, harass, or frighten any person at the called number or recklessly creating a risk thereof, the person:
 - (a) makes a telephone call, whether or not a conversation ensues;
 - (d) makes a telephone call and uses any lewd or profane language or suggests any lewd or lascivious act; or
- (2) Telephone harassment is a class B misdemeanor.

Utah Code Ann. § 76-9-201 (1999)

The Utah Court of Appeals focused solely on sections (a) and (d) as being the only two sections applicable to plaintiff's constitutional challenge. The remaining were not reviewed for constitutionality. For this reason, the Court only lists the challenged sections.

The Utah Court of Appeals listed numerous examples of protected First Amendment conduct that would violate the Provo City Ordinance. The Court of Appeals found that "the overbreadth of subsections (a) and (d) is real and substantial, as they " "sweep[] within [their] ambit other activities that in ordinary circumstances constitute an exercise of freedom of speech." ' " *Id.* at 1116 (citing *Logan City v. Huber*, 786 P.2d 1372, 1375 (Utah Ct. App. 1990) (quoting *Waters v. McGuriman*, 656 F.Supp. 923, 925 (E.D.Pa.1987) (citation omitted)). The Court of Appeals thus held that subsections (a) and (d) of section 76-9-201 were unconstitutionally overbroad. *Id.*

study, and during the summer months of 2000 was employed as a summer associate with the Los Angeles law firm of Kirkland & Ellis.

Plaintiff alleges that the Utah Court of Appeals' opinion made it into the hands of certain persons employed at Kirkland & Ellis and caused his summer employment with the firm to be terminated. Plaintiff proffers in his affidavit that he was called to the office of one of the partners at Kirkland & Ellis who had a copy of the opinion, told plaintiff he was no longer employed with Kirkland & Ellis and then handed him a check for approximately \$10,000.00. This amount is what plaintiff would have earned if allowed to continue through the duration of his summer employment.

After the Utah Court of Appeals' decision, plaintiff's conviction was expunged from his record pursuant to state law. Plaintiff brings this suit pursuant to 42 U.S.C. § 1983, arguing that defendant deprived him of his constitutional rights under the First and Fourteenth Amendments to the United States Constitution by prosecuting him on the basis of an unconstitutional ordinance.

II. PROCEDURAL HISTORY

On May 23, 2002, the Court held that defendant had violated plaintiff's rights under the First and Fourteenth Amendments, granting plaintiff's Motion for Partial Summary Judgment relating to liability. The only issue remaining is damages. Consequently, defendant propounded its First Set of Interrogatories and Request for Production of Documents to plaintiff on August 12, 2002. After plaintiff failed to properly comply with defendant's discovery requests, the Court granted defendant's First Motion to Compel Discovery on May 30, 2003. The Court declined defendant's request to dismiss this action pursuant to Rule 37(b) at that time. Instead, the Court

ordered the plaintiff to pay all reasonable expenses, including attorney's fees, incurred by the defendant in filing the motion.

On April 15, 2003, defendant filed a Motion for Partial Summary Judgment on all of plaintiff's damages claims, as well as a Second Motion to Compel. The Court denied in part and granted in part defendant's Motion for Partial Summary Judgment on November 4, 2003. The Court held that there was sufficient evidence to argue that the expunged Utah conviction was the proximate cause of plaintiff's termination at Kirkland & Ellis, but that plaintiff had not produced sufficient facts to support his claim for long term damages, including diminution of earning capacity, loss of income, and ongoing emotional distress related thereto. The Court also granted defendant's Second Motion to Compel Discovery, but again declined defendant's motion to dismiss the case.

The focus of the motion presently before the Court is defendant's Motion to Dismiss or, Alternatively, to Compel Discovery. In response to defendant's motion, plaintiff filed a Motion to Stay Further Proceedings until September 15, 2004, based on his wife's alleged cancer treatment. On September 16, 2004, plaintiff renewed his motion to further stay proceedings, claiming that the parties are negotiating a resolution to the long-standing discovery disputes. Defendant filed a Motion in Opposition to Further Stay of the Proceedings on September 24, 2004, stating that plaintiff's claim is untrue.

III. DISCUSSION

Rule 37(b)(2)(C): Plaintiff's Failure to Follow Discovery Rules

Defendant contends that the Court should order the plaintiff to either obey the Court's orders compelling discovery or dismiss his remaining damages claims. Rule 37(b)(2)(C) of the

Federal Rules of Civil Procedure permits a court to issue an order dismissing the action if a party fails to obey an order to provide or permit discovery. Although dismissal is a drastic sanction, it is appropriate in cases of willful misconduct. *See Ehrenhaus v. Rynolds*, 965 F.2d 916, 920 (10th Cir. 1992).

In *Ehrenhaus*, the Tenth Circuit identified five factors a court should consider before dismissing an action as a sanction under Rule 37(b)(2): “(1) the degree of actual prejudice to the defendant; (2) the amount of interference with the judicial process; . . . (3) the culpability of the litigant; (4) whether the court warned the party in advance that dismissal of the action would be a likely sanction for noncompliance; and (5) the efficacy of lesser sanctions.” *Id.* at 921 (citations and quotations omitted). Furthermore, “some of these factors will take on more importance than others.” *Id.* at 922. “Because dismissal with prejudice ‘defeats altogether a litigant’s right to access to the courts,’ it should be used as ‘a weapon of last, rather than first, resort.’” *Id.* at 922 (quoting *Meade v. Grubbs*, 841 F.2d 1512, 1520 n. 6 (10th Cir. 1988)).

In the instant case, plaintiff is a law school graduate acting pro se. Where a party appears pro se, the court should “carefully assess whether it might appropriately impose some sanction other than dismissal, so that the party does not unknowingly lose its right of access to the courts because of a technical violation.” *Ehrenhaus*, 965 F.2d at 922 n. 3. However, pro se litigants “have no license to flout a court’s authority willfully. Although pro se litigants get the benefit of more generous treatment in some respects, they must nonetheless follow the same rules of procedure that govern other litigants.” *Creative Gifts, Inc. v. UFO*, 235 F.3d 540, 549 (10th Cir. 2000) (citations and footnote omitted).

The Court will address each factor of the *Ehrenhaus* analysis in turn. First, the plaintiff's actions have prejudiced the defendant by causing unreasonable delay and mounting attorney's fees. The defendant began its efforts to discover the details of defendant's special and general damages claims on August 12, 2002, more than two years ago, when it served its First Set of Interrogatories and Request for Production of Documents to plaintiff. Plaintiff filed objections, most of which were not well taken, to the majority of the discovery requests but provided no evidence or other information that would lead to discovery of evidentiary support for his damage allegations. For example, two years after these interrogatories were propounded, plaintiff continues to refuse to identify any specific amounts and supporting documentation for such things as attorney's fees, compensation for lost earnings, or for any other damages. On June 3, 2003, this Court entered an order compelling plaintiff to respond to these and other unanswered discovery requests. Despite numerous requests from defense counsel that he do so, plaintiff has willfully refused to comply with this Court's order, and has completely failed to pay defendant's attorney's fees as ordered by the Court.

Moreover, plaintiff reiterated his disdain for cooperation in the discovery process and for this Court's orders by refusing to properly respond to defendant's Second Set of Interrogatories and Request for Production of Documents and this Court's November 3, 2003, Order compelling him to do so. Plaintiff has now refused to file any proper response to defendant's Third Set of Interrogatories and Request for Production of Documents. Plaintiff's latest so-called responses to defendant's interrogatories are yet another example of his blatant disregard for the orders of this Court.

Second, the plaintiff's actions have resulted in substantial interference with the judicial process. As discussed *infra*, the plaintiff's willful noncompliance and disregard for the orders of this Court have resulted in a two-year delay and frustrated the judicial process. When Plaintiff willfully failed to comply with two of this Court's orders, he flouted this Court's authority.

Third, the plaintiff is culpable for his actions. Plaintiff's failure to respond to three sets of interrogatories, not to mention two orders of this Court compelling his responses, could not be reasonably classified as a mere oversight. Although he is acting pro se, plaintiff is a law school graduate. Plaintiff has been given adequate opportunity to show good faith. Despite repeated direction from the Court and opposing counsel as to what type of information is necessary to move his case forward, he has failed to respond in any meaningful fashion. Rather than being cooperative, he has been recalcitrant; rather than complying in good faith with this Court's orders and the rules of procedure, he has been disdainful, dilatory, and noncompliant.

Fourth, plaintiff has been on notice that dismissal of the action is a likely sanction for his continued noncompliance with the discovery process and this Court's orders. In the Court's first order compelling the plaintiff to respond to defendant's interrogatories, the Court sanctioned the plaintiff pursuant to Rule 37(b) and ordered that he pay all reasonable expenses, including attorney's fees, incurred by defendant in filing the motion. However, the Court declined defendant's request to sanction the plaintiff by dismissing his claim for economic damages. The Court also declined this request in its second order compelling the plaintiff to respond to defendant's interrogatories. Thus, plaintiff was warned not once, but twice, that his continued noncompliance with the discovery process could result in a dismissal of this action. Finally, it is clear from plaintiff's willful failure to comply with two of this Court's orders that lesser

sanctions would not be effective. Because plaintiff has flouted the Court's orders compelling discovery and willfully refused to cooperate in the discovery process, the Court finds that dismissal of the plaintiff's remaining claims with prejudice is an appropriate sanction pursuant to Rule 37(b)(2) .

Rule 41(b): Plaintiff's Failure to Prosecute

In addition to dismissing plaintiff's damages claims because of his failure to follow discovery rules and the orders of the Court, dismissal of plaintiff's remaining claims with prejudice is appropriate because he has failed to prosecute this case. Rule 41(b) of the Federal Rules of Civil Procedure provides, "[f]or failure of the plaintiff to prosecute or comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against the defendant."

A careful, or even a cursory, examination of the history of this case reveals a failure by the plaintiff to prosecute this action. It is not an especially difficult case. Plaintiff alleged in his complaint that defendant is liable to him for damages caused by his prosecution under a city ordinance that was later found to be unconstitutionally overbroad. He contended that because of his prosecution he was prevented from pursuing a career in the law, that he would not be permitted to take the bar exam, and consequently, could never be a practicing lawyer. He also appeared to allege that he had lost his summer clerkship at the Kirkland & Ellis law firm because of the wrongful prosecution. Defendant quite naturally sought to have the plaintiff provide the evidence upon which these allegations rest. Defendant did this by sending interrogatories and other discovery requests to the plaintiff. Plaintiff responded to these reasonable requests not with good faith answers and documentation, but with wordy objections, most of which were spurious,

and with virtually no relevant factual information. As outlined above, plaintiff has maintained this obstructionist approach to defendant's requests throughout the past two years. In so doing, he has managed to advance his own case not at all. At the first critical juncture, a consequence of plaintiff's refusal to comply with the first round of discovery, his main claims regarding his loss of his ability to be a lawyer were dismissed for the simple reason that the plaintiff had failed to produce sufficient evidence to support his claims. Even so, it appeared he had perhaps produced enough evidence to support his claim regarding the loss of his summer clerkship. That caused defendant's counsel to submit to plaintiff specific questions regarding that remaining claim. Unfortunately, plaintiff responded in the same unhelpful manner as before, ultimately providing no meaningful insight into, or factual support for, plaintiff's own claim.

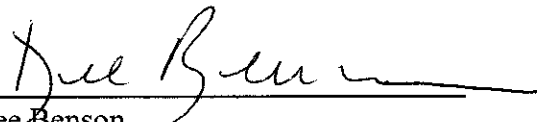
Sooner or later, and hopefully sooner, in every civil lawsuit, a defendant is entitled to know the factual support for the plaintiff's claims. Such information is helpful in many ways; it allows a defendant to understand the complaint, prepare a defense, and it provides a basis for meaningful settlement discussions. This process is at the very heart of litigation; without it a case cannot move forward. When it is the plaintiff, whose voluntary choice it was to bring the action in the first place, who refuses to meaningfully participate in that discovery process, he has wilfully failed to prosecute his action, and the case must be dismissed. Such is the case here. Plaintiff's case will be dismissed because the plaintiff himself, even with numerous opportunities to do so, has not advanced his own chosen cause of action. Therefore, dismissal of plaintiff's remaining claims with prejudice is also appropriate pursuant to Rule 41(b).

IV. CONCLUSION

Plaintiff has refused to comply with the Court's orders compelling discovery and willfully refused to cooperate in the discovery process and the prosecution of this case. Therefore, dismissal of the plaintiff's remaining claims with prejudice is an appropriate sanction pursuant to Rule 37(b)(2) and Rule 41(b). Accordingly, defendant's Motion to Dismiss is GRANTED and plaintiff's Complaint is DISMISSED with prejudice.

IT IS SO ORDERED.

DATED this 2nd day of February, 2005.


Dee Benson
United States District Judge

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:01-cv-00490

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Dennis C Ferguson, Esq.
WILLIAMS & HUNT
257 E 200 S STE 500
PO BOX 45678
SALT LAKE CITY, UT 84145-5678
EMAIL

Scott Whatcott
9663 SANTA MONICA BLVD #725
BEVERLY HILLS, CA 90210

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB -3 P 2:01
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FRANCISCO MARCOS ECHEVERRIA,

Defendant.

BY: [Signature]
DEPUTY CLERK
**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Case No. 2:04-CR-0136 DB

Judge Dee Benson

Before the Court is the Report and Recommendation of magistrate judge David Nuffer, issued November 5, 2004. At issue is Defendant's motion to suppress evidence. The magistrate judge recommended the motion be denied, and the Defendant filed an objection to that recommendation.

Having reviewed all relevant materials, including the reasoning set forth in the magistrate judge's Report and Recommendation, the Court agrees with and adopts the Report's findings of fact and legal conclusions. Regarding the critical issue of the existence of probable cause to search Defendant's vehicle, the Court finds considerable evidence in support. Viewing the facts under the totality of the circumstances test set forth in *Illinois v. Gates*, 426 U.S. 213 (1983), once Detective Chacon saw the firearm through the window of Defendant's Honda automobile, he possessed sufficient information to satisfy the Fourth Amendment's requirement of probable cause. At that point, he had verified the accuracy of at least three significant aspects of Ms. Echeverria's recent statement: 1) the address of her husband's home, 2) that her husband drove a gray Honda Civic, and 3) that he kept a firearm in the car. Under these circumstances, Detective Chacon was entitled to believe that Ms. Echeverria's additional assertion – that her husband also

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kept drugs in the car – was very probably true.

Defendant's counsel's assertion that Ms. Echeverria's reliability and credibility should be questioned because of the circumstances under which she gave her statement is unsupported by evidence or logic. The suggestion that her credibility should be questioned because she was trying to help herself with the police and prosecution has no factual support with either a statement to that effect by Ms. Echeverria or a promise made by Officer Chacon. Nor is it logical to think Ms. Echeverria could help her own situation by providing information regarding the location of drugs and guns in her husband's car unless it was true.

The Court ADOPTS the magistrate judge's Report and Recommendation.

IT IS SO ORDERED.

DATED this 3rd day of February, 2005.


Dee Benson
United States District Judge

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00136

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Richard D McKelvie, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Mr. Stephen R McCaughey, Esq.
10 W BROADWAY STE 650
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

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WORKMAN NYDEGGER & SEELE

FAX NO. 00000000000000000000

P. 02

FILED
CLERK, U.S. DISTRICT COURT
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JAN - 7 2005

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

U.S. DISTRICT COURT

Dominion Nutrition, Inc.
Plaintiff

v.

Tom Myers

Defendant.

CASE NO. 2:04-CV-1089 DB

Appearing on behalf of:

Plaintiff

(Plaintiff/Defendant)

MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL

I, L. David Griffin, hereby move the pro hac vice admission of petitioner to practice in this Court. I hereby agree to serve as designated local counsel for the subject case; to readily communicate with opposing counsel and the Court regarding the conduct of this case; and to accept papers when served and recognize my responsibility and full authority to act for and on behalf of the client in all case-related proceedings, including hearings, pretrial conferences, and trials, should Petitioner fail to respond to any Court order.

Date: January 6, 2005.

(Signature of Local Counsel)

A7868

(Utah Bar Number)

APPLICATION FOR ADMISSION PRO HAC VICE

Petitioner, Lawrence D. Graham, hereby requests permission to appear pro hac vice in the subject case. Petitioner states under penalty of perjury that he/she is a member in good standing of the bar of the highest court of a state or the District of Columbia; is (i) X a non-resident of the State of Utah or, (ii) a new resident who has applied for admission to the Utah State Bar and will take the bar examination at the next scheduled date; and, under DUCivR 83-1.1(d), has associated local counsel in this case. Petitioner's address, office telephone, the courts to which admitted, and the respective dates of admission are provided as required.

Petitioner designates L. David Griffin as associate local counsel.

Date: 1/5, 2005.

Check here X if petitioner is lead counsel.

(Signature of Petitioner)

Name of Petitioner: Lawrence D. Graham

Office Telephone: 206.381.3300

(Area Code and Main Office Number)

Business Address: Black Lowe & Graham PLLC

(Firm/Business Name)

701 Fifth Avenue, Suite 4800

Seattle, WA 98104

Street

City

State

Zip

ORIGIN

15

BAR ADMISSION HISTORY

COURTS TO WHICH ADMITTED	LOCATION	DATE OF ADMISSION
United States Supreme Court		February 20, 2001
US Court of Appeals - Ninth Circuit		September 16, 1999
US Court of Appeals - Federal Circuit		March 1, 1996
US District Court - Western District of Washington		November 21, 1995
US District Court - Northern District of Illinois		August 30, 2004
All Washington State Courts		November 17, 1995

(If additional space is needed, attach separate sheet.)

PRIOR PRO HAC VICE ADMISSIONS IN THIS DISTRICT

CASE TITLE	CASE NUMBER	DATE OF ADMISSION
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(If additional space is needed, attach a separate sheet.)

ORDER OF ADMISSION

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for Petitioner's admission pro hac vice in the United States District Court, District of Utah in the subject case is GRANTED.

This 2 day of Feb, 2005.



U.S. District Judge

RECEIVED CLERK

JAN - 7 2005

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
U.S. DISTRICT COURTDominion Nutrition, Inc.

Plaintiff

v.

Tom Myers

Defendant.

* CASE NO. 2:04-CV-1089 DB

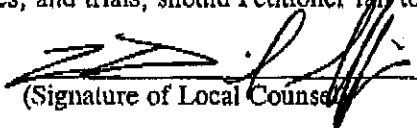
* Appearing on behalf of:

* Plaintiff

* (Plaintiff/Defendant)

MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL

I, L. David Griffin, hereby move the pro hac vice admission of petitioner to practice in this Court. I hereby agree to serve as designated local counsel for the subject case; to readily communicate with opposing counsel and the Court regarding the conduct of this case; and to accept papers when served and recognize my responsibility and full authority to act for and on behalf of the client in all case-related proceedings, including hearings, pretrial conferences, and trials, should Petitioner fail to respond to any Court order.

Date: January 3, 2005
(Signature of Local Counsel)

A7868

(Utah Bar Number)

APPLICATION FOR ADMISSION PRO HAC VICE

Petitioner, Mark S. Beaufait, hereby requests permission to appear pro hac vice in the subject case. Petitioner states under penalty of perjury that he/she is a member in good standing of the bar of the highest court of a state or the District of Columbia; is (i) X a non-resident of the State of Utah or, (ii) a new resident who has applied for admission to the Utah State Bar and will take the bar examination at the next scheduled date; and, under DUCivR 83-1.1(d), has associated local counsel in this case. Petitioner's address, office telephone, the courts to which admitted, and the respective dates of admission are provided as required.

Petitioner designates L. David Griffin as associate local counsel.Date: January 5, 2005Check here X if petitioner is lead counsel.
(Signature of Petitioner)Name of Petitioner: Mark S. BeaufaitOffice Telephone: 206.381.3300

(Area Code and Main Office Number)

Business Address: Black Lowe & Graham PLLC

(Firm/Business Name)

701 Fifth Avenue, Suite 4800

Street

Seattle, WA 98104

City

State

Zip

ORIGINAL

BAR ADMISSION HISTORY

COURTS TO WHICH ADMITTED	LOCATION	DATE OF ADMISSION
United States Supreme Court		June 8, 1987
All Washington State Courts		October 27, 1983
US District Court - Western District of Washington		November 17, 1983
US Claims Court		January 24, 1984
US Court of Appeals - Ninth Circuit		January 17, 1986
US Court of Appeals - Federal Circuit		February 28, 2002
US District Court - Northern District of Illinois		August 30, 2004

(If additional space is needed, attach separate sheet.)

PRIOR PRO HAC VICE ADMISSIONS IN THIS DISTRICT

CASE TITLE	CASE NUMBER	DATE OF ADMISSION
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(If additional space is needed, attach a separate sheet.)

ORDER OF ADMISSION

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for Petitioner's admission pro hac vice in the United States District Court, District of Utah in the subject case is GRANTED.

This 2 day of Feb, 2005.



U.S. District Judge

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-01089

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Larry R Laycock, Esq.
WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 E S TEMPLE
SALT LAKE CITY, UT 84111
EMAIL

Lawrence D. Graham, Esq.
BLACK LOWE & GRAHAM
701 FIFTH AVE STE 4800
SEATTLE, WA 98104

Mark S. Beaufait, Esq.
BLACK LOWE & GRAHAM
701 FIFTH AVE STE 4800
SEATTLE, WA 98104

Barry N. Johnson, Esq.
BENNETT TUELLER JOHNSON & DEERE LLC
3865 S WASATCH BLVD STE 300
SALT LAKE CITY, UT 84109
EMAIL

David Paul Gardner, Esq.
MOFFATT THOMAS BARRETT ROCK & FIELDS CHTD
412 W CENTER FL 2
POCATELLO, ID 83204

Craig Huckelbridge, Esq.
COOLEY GODWARD
ONE MARITIME PLAZA 20TH FL
SAN FRANCISCO, CA 94111

Martin S. Schenker, Esq.
COOLEY GODWARD
ONE MARITIME PLAZA 20TH FL
SAN FRANCISCO, CA 94111

James L. Martin, Esq.
MOFFATT THOMAS BARRETT ROCK & FIELDS

PO BOX 829
BOISE, ID 83701
EMAIL

Tyler Anderson, Esq.
MOFFATT THOMAS BARRETT ROCK & FIELDS
PO BOX 829
BOISE, ID 83701
EMAIL

United States District Court 2005 FEB -3 P-3:10
District of Utah

UNITED STATES OF AMERICA

vs.

Antwan Mims
aka Antwan Melton

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 2:04-CR-00549-001-TC

Plaintiff Attorney: Dave Backman, AUSA

Defendant Attorney: Sharon Preston, Esq.

Atty: CJA ☒ Ret ☐ FPD ☐

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: _____

Defendant's USM No.: 11740-081

Defendant's Residence Address: _____

Country: _____

02/02/05

Date of Imposition of Sentence

Defendant's Mailing Address: _____

Same

Country: _____

THE DEFENDANT:

- ☒ pleaded guilty to count(s)
- ☐ pleaded nolo contendere to count(s)
which was accepted by the court.
- ☐ was found guilty on count(s)

COP 10/20/2004 Verdict _____

I of indictment

Title & Section
21 USC §922(g)(1)Nature of Offense
Possession of a Firearm by a Convicted FelonCount
Number(s)
I

- ☐ The defendant has been found not guilty on count(s) _____
- ☒ Count(s) II of indictment _____ (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of 70 months

Upon release from confinement, the defendant shall be placed on supervised release for a term of 36 months

- ☐ The defendant is placed on Probation for a period of _____
The defendant shall not illegally possess a controlled substance.

20

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. The defendant will submit to drug/alcohol testing as directed by the probation office, and pay a one-time \$115 fee to partially defer the costs of collection and testing. If testing reveals illegal drug use, the defendant shall participate in drug and/or alcohol abuse treatment under a co-payment plan as directed by the United States Probation Office and shall not possess or consume alcohol during the course of treatment.
2. The defendant shall not use or possess alcohol.
3. The defendant shall submit his person, residence, office, or vehicle to a search, conducted by the United States Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
4. The defendant shall refrain from association with any known gang member.
5. The defendant shall submit to the collection of a DNA sample at the direction of the US Bureau of Prisons or the USPO.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ _____, payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
No fine imposed.

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before _____

the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).

☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), **it is ordered that:**

☐ The interest requirement is waived.

☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☐ Restitution is payable as follows:

☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

☐ other:

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 100.00, payable as follows:

☒ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

RECOMMENDATION

- ☒ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:

The court recommends defendant be placed in a facility in the state of Arizona and that he receive drug counseling and treatment while incarcerated.

CUSTODY/SURRENDER

- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE: 2-3-2005



Tena Campbell
United States District Judge

Defendant: Antwan Mims
Case Number: 2:04-CR-00549-001-TC

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

alt

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00549

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

David F. Backman, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Sharon L. Preston, Esq.
716 E 4500 S STE N142
SALT LAKE CITY, UT 84107
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

RECEIVED

FEB - 3 2005

OFFICE OF

JUDGE TENA CAMPBELL

RECEIVED CLERK

FEB - 2 2005

U.S. DISTRICT COURT

FILED

CLERK, U.S. DISTRICT COURT

2005 FEB - 3 10 3:10

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Nutraceutical Corporation, et al.

Plaintiff

v.

Lester Crawford, Acting Commissioner of the U.S. Food
and Drug Administration, et. al.

Defendant.

CASE NO. 2:04 CV 00409 TC

Appearing on behalf of:

Plaintiff

(Plaintiff/Defendant)

MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL

I, Jan N. Allred, hereby move the pro hac vice admission of petitioner to practice in this Court. I hereby agree to serve as designated local counsel for the subject case; to readily communicate with opposing counsel and the Court regarding the conduct of this case; and to accept papers when served and recognize my responsibility and full authority to act for and on behalf of the client in all case-related proceedings, including hearings, pretrial conferences, and trials, should Petitioner fail to respond to any Court order.

Date: February 2, 2005.

(Signature of Local Counsel)

4741

(Utah Bar Number)

APPLICATION FOR ADMISSION PRO HAC VICE

Petitioner, Mark L. Josephs, hereby requests permission to appear pro hac vice in the subject case. Petitioner states under penalty of perjury that he/she is a member in good standing of the bar of the highest court of a state or the District of Columbia; is (i) ☒ a non-resident of the State of Utah or, (ii) ☐ a new resident who has applied for admission to the Utah State Bar and will take the bar examination at the next scheduled date; and, under DUCivR 83-1.1(d), has associated local counsel in this case. Petitioner's address, office telephone, the courts to which admitted, and the respective dates of admission are provided as required.

Petitioner designates Jan Allred, Assistant U.S. Attorney as associate local counsel.

Date: January 28, 2005.

Check here ☒ if petitioner is lead counsel.

(Signature of Petitioner)

Name of Petitioner: Mark L. Josephs

Office Telephone: (202) 305-3630

(Area Code and Main Office Number)

Business Address: U.S. Department of Justice, Office of Consumer Litigation

P.O. Box 386

(Firm/Business Name)

Washington

DC

20044

Street

City

State

Zip

24

BAR ADMISSION HISTORY

COURTS TO WHICH ADMITTED	LOCATION	DATE OF ADMISSION
--------------------------	----------	-------------------

Illinois Supreme Court	Illinois	January 1994
------------------------	----------	--------------

District of Columbia	Washington, DC	1996
----------------------	----------------	------

U.S. District Court for D.C.	Washington, DC	1996
------------------------------	----------------	------

U.S. Court of Federal Claims	Washington, DC	1996
------------------------------	----------------	------

U.S. Supreme Court	Washington, DC	2001
--------------------	----------------	------

(If additional space is needed, attach separate sheet.)

PRIOR PRO HAC VICE ADMISSIONS IN THIS DISTRICT

CASE TITLE	CASE NUMBER	DATE OF ADMISSION
------------	-------------	-------------------

(If additional space is needed, attach a separate sheet.)

NO FEE REQUIRED

ORDER OF ADMISSION

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for Petitioner's admission pro hac vice in the United States District Court, District of Utah in the subject case is GRANTED.

This 3 day of feb, 2005.

Eric Campbell
U.S. District Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of February, 2005, I caused to be served by regular mail, postage prepaid, copies of MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL addressed as follows:

Jonathan W. Emord, Esq.
Emord & Associates, P.C.
5282 Lyngate Court
Burke, VA 22015

Peggy A. Tomsic, Esq.
Berman, Tomsic & Savage
50 South Main Street, Suite 1250
Salt Lake City, Utah 84144

Ilene Pars

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00409

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Ms. Peggy A Tomsic, Esq.
TOMSIC LAW FIRM LLC
136 E SO TEMPLE #800
SALT LAKE CITY, UT 84111
EMAIL

Jonathan Walker Emord, Esq.
EMORD & ASSOCIATES
1800 ALEXANDER BELL DR STE 200
RESTON, VA 20191
EMAIL

Ms. Jan N. Allred, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Mark L. Josephs, Esq.
US DEPARTMENT OF JUSTICE
OFFICE OF CONSUMER LITIGATION
PO BOX 386
WASHINGTON, DC 20044

RECEIVED

FEB - 3 2005

OFFICE OF
JUDGE TENA CAMPBELL

FILED
CLERK, U.S. DISTRICT COURT
RECEIVED CLERK
2005 FEB -3 P 3:10
FEB - 2 2005
U.S. DISTRICT COURT
DEPUTY CLERK

J. MICHAEL BAILEY (4965)
JOHN E. DELANEY (8481)
Parsons Behle & Latimer
Attorneys for Defendant James D. Scanlon III dba
Scanlon Associates
One Utah Center
201 South Main Street, Suite 1800
Post Office Box 45898
Salt Lake City, UT 84145-0898
Telephone: (801) 532-1234
Facsimile: (801) 536-6111

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

COMPLIANCE SOFTWARE, INC., a Utah
company,

Plaintiff,

vs.

JAMES D. SCANLON III, an individual,
dba SCANLON ASSOCIATES,

Defendant.

Case No. 2:05CV00015 TC

~~PROPOSED~~ ORDER GRANTING
EXTENSION OF TIME TO ANSWER OR
OTHERWISE RESPOND TO PLAINTIFF'S
COMPLAINT

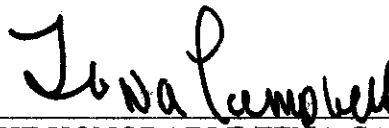
Judge Tena Campbell

Based on the Stipulation for Extension of Time to Answer or Otherwise Respond to Plaintiff's Complaint entered into between defendant James D. Scanlon III, d/b/a Scanlon Associates ("Scanlon"), and plaintiff Compliance Software, Inc., by and through their respective counsel of record, and good cause appearing therefore,

It is hereby ORDERED that Scanlon may have an extension of time through and including Tuesday, February 22, 2005, in which to answer or otherwise respond to plaintiff's Complaint.

DATED this 3 day of February, 2005.

BY THE COURT:



THE HONORABLE TENA CAMPBELL
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:



ANDREW H. STONE

JOHN A. PEARCE

CANDICE PITCHER

JONES, WALDO, HOLBROOK &

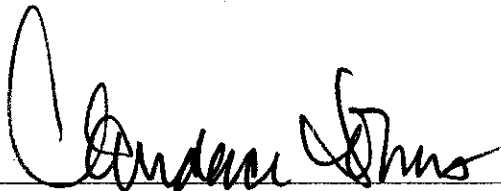
MCDONOUGH, P.C.

Attorneys for Plaintiff Compliance Software,
Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of February, 2005, I caused to be mailed, first class, postage prepaid, a true and correct copy of the foregoing **[PROPOSED] ORDER GRANTING EXTENSION OF TIME TO ANSWER OR OTHERWISE RESPOND TO PLAINTIFF'S COMPLAINT**, to:

Andrew H. Stone
John A. Pearce
Candice Pitcher
JONES, WALDO, HOLBROOK &
McDONOUGH, P.C.
170 South Main Street, Suite 1500
Salt Lake City, UT 84101

A handwritten signature in black ink, appearing to read "Candace Johns", is written over a horizontal line.

Candace Johns

alt

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:05-cv-00015

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Andrew H Stone, Esq.
JONES WALDO HOLBROOK & MCDONOUGH
170 S MAIN ST STE 1500
PO BOX 45444
SALT LAKE CITY, UT 84145-0444
EMAIL

Mr. J. Michael Bailey, Esq.
PARSONS BEHLE & LATIMER
201 S MAIN ST STE 1800
PO BOX 45898
SALT LAKE CITY, UT 84145-0898
EMAIL

**Report and Order Terminating Supervised release
Prior to Original Expiration Date**

UNITED STATES DISTRICT COURT

for the

DISTRICT OF UTAH

UNITED STATES OF AMERICA

v. Criminal No. 1:00-CR-00044-001-TC

ARTURO VILLALVA-GARCIA

On May 23, 2002, the above-named began a term of Supervised Release for a period of four years. The defendant has complied with the rules and regulations of Supervised Release and is no longer in need of supervision. It is accordingly recommended that the defendant be discharged from supervision.

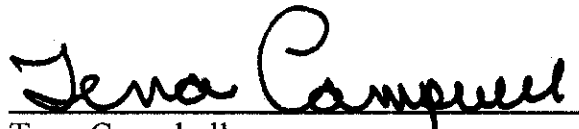
Respectfully submitted,



Eric Anderson
United States Probation Officer

Pursuant to the above report, it is ordered that the defendant be discharged from supervision and that the proceedings in the case be terminated.

Dated this 3 day of Feb, 2005



Tena Campbell
United States District Judge



UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
PROBATION AND PRETRIAL SERVICES

RECEIVED

Memorandum

FEB - 3 2005

OFFICE OF
JUDGE TENA CAMPBELL

DATE: January 31, 2005
TO: Honorable Tena Campbell, U.S. District Court Judge
FROM: Eric Anderson, U.S. Probation Officer
SUBJECT: ARTURO VILLALVA-GARCIA
Docket No. 1:00-CR-00044-001-TC

It is respectfully recommended Mr. Villalva-Garcia be granted early termination from his term of supervised release. Assistant United States Attorney Veda Travis has no objections to Mr. Villalva-Garcia being released early from supervision. If Your Honor concurs, a Form 35 (Early Termination) has been attached for Your Honor's signature.

Mr. Villalva-Garcia was sentenced January 3, 2001, to 24 months custody with the Federal Bureau of Prisons, to be followed by a 48-month term of supervised release, due to one count of Distribution of Methamphetamine. Mr. Villalva-Garcia began his term of supervised release on May 23, 2002.

Mr. Villalva-Garcia has complied fully with all conditions set forth by the Court. He completed 100 hours of community service, paid his financial obligations, completed substance abuse treatment in a timely manner, and maintained clean urinalysis for drug and/or alcohol detection. Mr. Villalva-Garcia has been employed on a full-time basis throughout his supervision. He is currently employed as a conductor for Union Pacific Railroad. Mr. Villalva-Garcia is married and, since his release, two children have been born. Mr. Villalva-Garcia has also become an ordained minister in his church.

Attachment

alt

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:00-cr-00044

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Veda M. Travis, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

United States District Court
for the District of Utah

Petition and Order for Action on Conditions of Pretrial Release

Name of Defendant: **Daniel David Egli**

Docket Number: **2:04-CR-00577-001-TC**

Name of Judicial Officer: **David Nuffer**

Date of Release: **September 8, 2004**

FILED
CLERK, U.S. DISTRICT COURT

2004 SEP 11 1:47 PM

BY:
DEPUTY CLERK

PETITIONING THE COURT

☒ To issue a warrant 4373 Lynne Lane, Holladay, UT 84124

CAUSE

The pretrial services officer believes that the defendant has violated the conditions of supervision as follows:

Allegation One: On or about February 2, 2005, the defendant admitted to counselors employed by ISAT (Intermountain Specialized Abuse Treatment Center), that he has continued to access the internet for personal use.

I declare under penalty of perjury that the foregoing is true and correct



Mindy Eckman, U.S. Pretrial Services Officer

Date: February 3, 2005 

THE COURT ORDERS:

☒ The issuance of a Warrant

☐ No action

☐ Other



David Nuffer

United States Magistrate Judge

Date: 3 Feb 2005



alt

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00577

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Michele M. Christiansen, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

United States District Court
District of Utah

Markus B. Zimmer
Clerk of Court

Louise S. York
Chief Deputy

February 4, 2005

Mr. Patrick Fisher, Clerk United
States Court of Appeals for the
Tenth Circuit
1823 Stout Street Denver, CO
80257

—

RE: 04-4305
USA v. Mozqueda-Ramirez
Lower Docket: 1:03-CR-69-TC

Dear Clerk of Court:

Please be advised that the record is complete for the purposes of appeal.

Sincerely,

Markus B. Zimmer, Clerk

By: /S
Aaron Paskins
Appeal's Clerk

cc: Counsel of Record

United States District Court
for the
District of Utah
February 4, 2005

asp

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:03-cr-00069

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH
,
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

Mr Richard P Mauro, Esq.
43 E 400 S
SALT LAKE CITY, UT 84111
EMAIL

Lee C. Rasmussen, Esq.
RASMUSSEN MINER & ASSOCIATES
42 EXCHANGE PLACE
SALT LAKE CITY, UT 84111
EMAIL

Scott C. Williams, Esq.
43 E 400 S
SALT LAKE CITY, UT 84111
EMAIL

Mr. Bradley P Rich, Esq.
YENGICH RICH & XAIZ
175 E 400 S STE 400
SALT LAKE CITY, UT 84111
EMAIL

Todd A. Utzinger, Esq.
UTZINGER & PERRETTA
562 S MAIN ST 2ND FL
BOUNTIFUL, UT 84010
EMAIL

Mr. Loren E Weiss, Esq.
VAN COTT BAGLEY CORNWALL & MCCARTHY

50 S MAIN STE 1600
PO BOX 45340
SALT LAKE CITY, UT 84145
EMAIL

Mr. D. Richard Smith, Esq.
SMITH COLE & ASSOCIATES
4444 S 700 E STE 101
SALT LAKE CITY, UT 84107
EMAIL

Roy D. Cole, Esq.
2564 WASHINGTON BLVD STE 101
OGDEN, UT 84401
EMAIL

Julie George, Esq.
PO BOX 112338
29 S STATE STE 7
SALT LAKE CITY, UT 84147
EMAIL

Rick S. Lundell, Esq.
LUNDELL & LOFGREN
136 S MAIN ST STE A200
SALT LAKE CITY, UT 84101
EMAIL

Mr. Don Sharp, Esq.
2491 WASHINGTON BLVD #200
OGDEN, UT 84401
JFAX 8,801,3932340

Michael R. Sikora, Esq.
SALT LAKE LEGAL DEFENDER ASSOCIATION
424 E 500 S STE 300
SALT LAKE CITY, UT 84111
EMAIL

Mr. Roger K Scowcroft, Esq.
39 EXCHANGE PLACE STE 200
SALT LAKE CITY, UT 84111
EMAIL

Mr. Larry N. Long, Esq.
L LONG LAWYERS
350 W BROADWAY #200
SALT LAKE CITY, UT 84101-1702
EMAIL

Randall G. Phillips, Esq.
PHILLIPS LAW OFFICE
2510 WASHINGTON BLVD STE 200
OGDEN, UT 84401
EMAIL

Michael P. Kennedy, Esq.
US ATTORNEY'S OFFICE
/
EMAIL

Ms. Mary C. Corporon, Esq.
CORPORON & WILLIAMS PC
808 E SOUTH TEMPLE
SALT LAKE CITY, UT 84102
EMAIL

United States District Court
District of Utah

Markus B. Zimmer
Clerk of Court

Louise S. York
Chief Deputy

February 4, 2005

Mr. Patrick Fisher, Clerk United
States Court of Appeals for the
Tenth Circuit
1823 Stout Street Denver, CO
80257

—

RE: 04-4311
USA v. Galaz-Felix
Lower Docket: 1:03-CR-62-TC

Dear Clerk of Court:

Please be advised that the record is complete for the purposes of appeal.

Sincerely,

Markus B. Zimmer, Clerk

By: /S
Aaron Paskins
Appeal's Clerk

cc: Counsel of Record

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:03-cr-00062

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

David V. Finlayson, Esq.
43 E 400 S
SALT LAKE CITY, UT 84111
EMAIL

Sharon L. Preston, Esq.
716 E 4500 S STE N142
SALT LAKE CITY, UT 84107
EMAIL

Mr. Gary L Gale, Esq.
2568 WASHINGTON BLVD STE 205
OGDEN, UT 84401
JFAX 8,801,6215826

US Probation
DISTRICT OF UTAH
,
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

Ms. Candice A Johnson, Esq.
10 W BROADWAY #210
SALT LAKE CITY, UT 84111
EMAIL

Mr. D. Richard Smith, Esq.
SMITH COLE & ASSOCIATES
4444 S 700 E STE 101
SALT LAKE CITY, UT 84107
EMAIL

Robert K. Hunt, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101

EMAIL

Benjamin A. Hamilton, Esq.
356 E 900 S
SALT LAKE CITY, UT 84111
EMAIL

Mr. Solomon J. Chacon, Esq.
945 E 100 S
SALT LAKE CITY, UT 84102
JFAX 9,3644456

Michael R. Sikora, Esq.
SALT LAKE LEGAL DEFENDER ASSOCIATION
424 E 500 S STE 300
SALT LAKE CITY, UT 84111
EMAIL

Carlos M. Chavez, Esq.
455 E 400 S STE 40
SALT LAKE CITY, UT 84111

Todd A. Utzinger, Esq.
UTZINGER & PERRETTA
562 S MAIN ST 2ND FL
BOUNTIFUL, UT 84010
EMAIL

Mr. Stephen R McCaughey, Esq.
10 W BROADWAY STE 650
SALT LAKE CITY, UT 84101
EMAIL

Joseph W. O'Keefe Jr., Esq.
818 26TH ST
OGDEN, UT 84401

Ms. Deirdre A Gorman, Esq.
205 26TH ST STE 32
OGDEN, UT 84401
EMAIL

Michael P. Kennedy, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Mr. John B Hutchison, Esq.
427 27TH ST
OGDEN, UT 84401
JFAX 8,801,3947706

Mr. Ronald J. Yengich, Esq.
YENGICH RICH & XAIZ
175 E 400 S STE 400
SALT LAKE CITY, UT 84111
EMAIL

Mr. Bradley P Rich, Esq.
YENGICH RICH & XAIZ

175 E 400 S STE 400
SALT LAKE CITY, UT 84111
EMAIL

Mr. Loren E Weiss, Esq.
VAN COTT BAGLEY CORNWALL & MCCARTHY
50 S MAIN STE 1600
PO BOX 45340
SALT LAKE CITY, UT 84145
EMAIL

Randall G. Phillips, Esq.
PHILLIPS LAW OFFICE
2510 WASHINGTON BLVD STE 200
OGDEN, UT 84401
EMAIL

Mr. Ronald W Perkins, Esq.
FARR KAUFMAN SULLIVAN
JENSEN MEDSKER NICHOLS CONKLIN & PERKINS
205 26TH ST STE 34
OGDEN, UT 84401
JFAX 8,801,3924125

Mr. Gil Athay, Esq.
43 E 400 S #325
SALT LAKE CITY, UT 84111
JFAX 9,3643232

Ms. Mary C. Corporon, Esq.
CORPORON & WILLIAMS PC
808 E SOUTH TEMPLE
SALT LAKE CITY, UT 84102
EMAIL

United States District Court
District of Utah

Markus B. Zimmer
Clerk of Court

Louise S. York
Chief Deputy

February 4, 2005

Mr. Patrick Fisher, Clerk United
States Court of Appeals for the
Tenth Circuit
1823 Stout Street Denver, CO
80257

—

RE: 04-4254
USA v. Gregoire
Lower Docket: 2:02-CR-756-DB

Dear Clerk of Court:

Please be advised that the record is complete for the purposes of appeal.

Sincerely,

Markus B. Zimmer, Clerk

By: /S
Aaron Paskins
Appeal's Clerk

cc: Counsel of Record

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cr-00756

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Samuel P. Chiara, Esq.
98 N 400 E
PO BOX 955
PRICE, UT 84501

Bryant K. Calloway, Esq.
LAW OFFICES OF BRYANT K. CALLOWAY
2040 MAIN ST
9TH FLOOR
IRVINE, CA 92614

Michael P. Kennedy, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

RECEIVED
FILED
CLERK U.S. DISTRICT COURT
RECEIVED CLERK

FEB - 7 2005

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Wavetronix UT

Plaintiff

v.

EIS Electronic Integrated Systems, Inc.

Defendant.

CASE NO. 2:05-CV-00073

Appearing on behalf of:

Wavetronix UT

(Plaintiff/Defendant)

MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL

I, Bryon J. Benevento, hereby move the pro hac vice admission of petitioner to practice in this Court. I hereby agree to serve as designated local counsel for the subject case; to readily communicate with opposing counsel and the Court regarding the conduct of this case; and to accept papers when served and recognize my responsibility and full authority to act for and on behalf of the client in all case-related proceedings, including hearings, pretrial conferences, and trials, should Petitioner fail to respond to any Court order.

Date: Feb 1, 2005

(Signature of Local Counsel)

(Utah Bar Number)

APPLICATION FOR ADMISSION PRO HAC VICE

Petitioner, Maximilian A. Grant, hereby requests permission to appear pro hac vice in the subject case. Petitioner states under penalty of perjury that he/she is a member in good standing of the bar of the highest court of a state or the District of Columbia; is (i) ☒ a non-resident of the State of Utah or, (ii) ☐ a new resident who has applied for admission to the Utah State Bar and will take the bar examination at the next scheduled date; and, under DUCivR 83-1.1(d), has associated local counsel in this case. Petitioner's address, office telephone, the courts to which admitted, and the respective dates of admission are provided as required.

Petitioner designates Bryon J. Benevento as associate local counsel.

Date: Feb 1, 2005

Check here ☒ if petitioner is lead counsel.

(Signature of Petitioner)

Name of Petitioner: Maximilian A. Grant

Office Telephone: (202) 637-2267

(Area Code and Main Office Number)

Business Address:

Latham & Watkins LLP

(Firm/Business Name)

555 Eleventh Street, NW

Street

Washington

City

DC

State

20004-1304

Zip

11

BAR ADMISSION HISTORY

COURTS TO WHICH ADMITTED	LOCATION	DATE OF ADMISSION
Illinois		1996
U.S. District Court for N.D. Ill. (including trial bar)		1996 (1998)
Colorado (inactive)		1997
U.S. Court of Appeals for the Eleventh Circuit		1997
U.S. Court of Appeals for the Seventh Circuit		1998
U.S. Court of Appeals for the Federal Circuit		1998
U.S. District Court for E.D. Mich.		2002
(If additional space is needed, attach separate sheet.)		

PRIOR PRO HAC VICE ADMISSIONS IN THIS DISTRICT

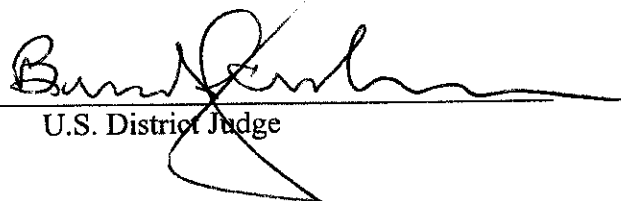
CASE TITLE	CASE NUMBER	DATE OF ADMISSION
NONE		
(If additional space is needed, attach a separate sheet.)		

FEE PAID

ORDER OF ADMISSION

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for Petitioner's admission pro hac vice in the United States District Court, District of Utah in the subject case is GRANTED.

This 2 day of Feb, 2005.



U.S. District Judge

BAR ADMISSION HISTORY (CON'T)

COURTS TO WHICH ADMITTED	LOCATION	DATE OF ADMISSION
<u>U.S. District Court for W.D. Wisc.</u>		<u>2003</u>
<u>U.S. Court of Appeals for the Sixth Circuit</u>		<u>2003</u>
<u>District of Columbia</u>		<u>2004</u>

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to all known counsel of record via first-class postage, prepaid, U.S. mail to the following on February 14, 2005:

Brent Lorimer, Esq.
Charles Roberts, Esq.
Workman Nydegger
60 East South Temple
Suite 1000
Salt Lake City, Utah 84111

Kym R Edler

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:05-cv-00073

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Brent P. Lorimer, Esq.
WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 E S TEMPLE
SALT LAKE CITY, UT 84111
EMAIL

Mr. Charles L Roberts, Esq.
WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 E S TEMPLE
SALT LAKE CITY, UT 84111
EMAIL

Maximilian A. Grant, Esq.
LATHAM & WATKINS LLP
555 11TH STREET NW
WASHINGTON, DC 20004

Mr. Bryon J Benevento, Esq.
SNELL & WILMER LLP
15 W SOUTH TEMPLE STE 1200
GATEWAY TOWER W
SALT LAKE CITY, UT 84101
EMAIL

RECEIVED CLERK

FEB - 1 2005

U.S. DISTRICT COURT
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

JUAN FERRIS SANCHEZ

Plaintiff

v.

USA

Defendant.

*
* CASE NO. 05 CV 20 (BSJ)
*
* Appearing on behalf of:
* JUAN FERRIS SANCHEZ
* (Plaintiff/Defendant)
*

MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL

I, Rebecca C Hyde, hereby move the pro hac vice admission of petitioner to practice in this Court. I hereby agree to serve as designated local counsel for the subject case; to readily communicate with opposing counsel and the Court regarding the conduct of this case; and to accept papers when served and recognize my responsibility and full authority to act for and on behalf of the client in all case-related proceedings, including hearings, pretrial conferences, and trials, should Petitioner fail to respond to any Court order.

Date: 1/28, 2005

[Signature]
(Signature of Local Counsel)

6409
(Utah Bar Number)

APPLICATION FOR ADMISSION PRO HAC VICE

Petitioner, Cheryl J. Stuenkel, hereby requests permission to appear pro hac vice in the subject case. Petitioner states under penalty of perjury that he/she is a member in good standing of the bar of the highest court of a state or the District of Columbia; is (i) X a non-resident of the State of Utah or, (ii) a new resident who has applied for admission to the Utah State Bar and will take the bar examination at the next scheduled date; and, under DUCivR 83-1.1(d), has associated local counsel in this case. Petitioner's address, office telephone, the courts to which admitted, and the respective dates of admission are provided as required.

Petitioner designates Rebecca Hyde, Attorney at Law as associate local counsel.

Date: January 17, 2005.

Check here ☒ if petitioner is lead counsel.

[Signature]
(Signature of Petitioner) CHERYL J. STUENKEL

Name of Petitioner: Cheryl J. Stuenkel Office Telephone: 484-771-2000
(Area Code and Main Office Number)

Business Address: 387 Ring Road, Cedar Fort, UT 84317
(Firm/Business Name)

Street

City

State

Zip

4

BAR MEMBERSHIPS

COURT	DATED ADMITTED	GOOD STANDING
<u>Pennsylvania Supreme Court</u>	1984	yes
<u>United States District Courts</u>		
Eastern District of Pennsylvania	1984	yes
Middle District of Pennsylvania	1985	yes
Western District of Pennsylvania	1988	yes
Northern District of New York	1985	yes
Southern District of New York	1985	yes
Eastern District of New York	1985	yes
Western District of New York	1986	yes
Eastern District of Wisconsin	1996	yes
Western District of Texas	1997	yes
District of Colorado	1997	yes
Central District of Illinois	2003	yes
<u>United States Courts of Appeals</u>		
1 st Circuit	1987	yes
2 nd Circuit	1985	yes
3 rd Circuit	1985	yes
4 th Circuit	1987	yes
5 th Circuit	1991	yes
6 th Circuit	1993	yes
7 th Circuit	1994	yes
8 th Circuit	1987	yes
9 th Circuit	1985	yes
10 th Circuit	1999	yes
11 th Circuit	1994	yes
District of Columbia	1998	yes
<u>United States Supreme Court</u>	1991	yes

FILED
CLERK U.S. DISTRICT COURT
RECEIVED
JUL 2 2005
OFFICE OF U.S. DISTRICT JUDGE
BRUCE S. JENKINS

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

OFFICE OF THE CLERK OF COURT

Suite 150, Frank E. Moss United States Courthouse

350 South Main Street

Salt Lake City, Utah 84101-2180

(801) 524-6100

PRO HAC VICE ADMISSION APPLICATION

INSTRUCTIONS

Admission Fee: \$15.00 payable by check or money order to Clerk, U.S. District Court. Fee will cover membership for the duration of the case or twelve (12) months, whichever is longer. Pro hac applicants who paid the fee within the past 12 months and who are requesting admission to practice in a case other than that originally specified when the fee was paid should check the blank below and indicate the date of their most recent pro hac vice admission to this Court. *Applicants are required to complete and submit this form for each case in which they participate as pro hac vice counsel.*

Applicant was previously admitted pro hac vice to this Court in case # 97 CV-290; month of most recent pro hac vice admission and payment of fee was July, 2019.

Application: Please type or print legibly and complete all blanks.

Designated Local Counsel: Must be an active member in good standing of the Utah State Bar and the Bar of this Court.

Mandatory Requirements:

1. Provide and attach a separate list by number and title of all cases filed in this Court in which applicant has appeared as counsel in the past five years.
2. Type local counsel's name below the signature line and enter the bar number in the space provided.
3. If more than one attorney from the same firm is seeking pro hac admission in this case, please indicate which attorney will serve as lead counsel for purposes of receiving official court notices and other case-related documents.

BAR ADMISSION HISTORY

COURTS TO WHICH ADMITTED

LOCATION

DATE OF ADMISSION

See attached list

(If additional space is needed, attach separate sheet.)

PRIOR PRO HAC VICE ADMISSIONS IN THIS DISTRICT

CASE TITLE

CASE NUMBER

DATE OF ADMISSION

Robert Baron USA

97 00 290

7 14 00

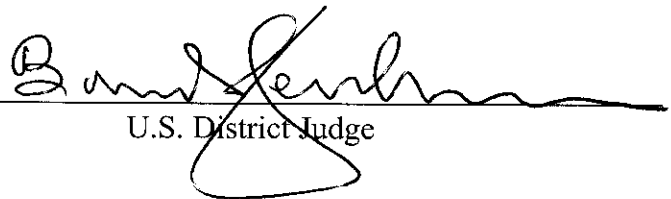
(If additional space is needed, attach a separate sheet.)

ORDER OF ADMISSION

FEE PAID

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for Petitioner's admission pro hac vice in the United States District Court, District of Utah in the subject case is GRANTED.

This 1 day of Feb, 2005.


U.S. District Judge

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:05-cv-00020

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Cheryl J. Sturm, Esq.
387 RING RD
CHADDS FORD, PA 19317
EMAIL

Michael P. Kennedy, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

FILED
CLERK U.S. DISTRICT COURT

2005-3-3 P 4:02

BY
DEPUTY CLERK

Alan C. Bradshaw, #4801
MANNING CURTIS BRADSHAW
& BEDNAR, LLC
Third Floor Newhouse Building
10 Exchange Place
Salt Lake City, UT 84111
Telephone: (801) 363-5678
Facsimile: (801) 364-5678

J. Stan Sexton (*pro hac vice*)
SHOOK, HARDY & BACON L.L.P.
2555 Grand Boulevard
Kansas City, Missouri 64108-2613
Telephone: (816) 474-6550
Facsimile: (816) 421-5547

Attorneys for Ansul Incorporated

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

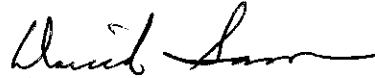
SAFEWAY, INC., Plaintiff, vs. CONSONUS, INC., et al. Defendants.	ORDER GRANTING EXTENSION OF TIME Case No. 2:02-CV-1216 Honorable David Sam
---	---

Pursuant to the stipulation of the parties and good cause appearing, IT IS HEREBY
ORDERED that Ansul shall have up to and including February 11, 2005, to file its reply
memoranda in support of Ansul's Motion for Summary Judgment Seeking Dismissal of the
Claims of Safeway, Inc. and Ansul's Motion for Summary Judgment Seeking Dismissal of the
Claims of Consonus, Inc.

4183

DATED this 3-1 day of February, 2005.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "David Sam", written in black ink.

Judge David Sam
U.S. District Court Judge

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing ORDER GRANTING EXTENSION OF TIME was mailed on the ____ day of February, 2005, to the following:

Douglas H. Patton
Edward B. Havas
DEWSNUP, KING & OLSEN
2020 Beneficial Life Tower
36 South State Street
Salt Lake City, Utah 84111
Attorneys for Safeway, Inc.

Stephen J. Trayner
Robert L. Janicki
Peter C. Schofield
STRONG & HANNI
3 Triad Center, Suite 500
Salt Lake City, Utah 84180
Attorneys for Union Pointe Construction Corporation

John N. Braithwaite
David N. Sonnenreich
PLANT CHRISTENSEN & KANELL
136 East South Temple, Suite 1700
Salt Lake City, Utah 84111
Attorneys for Alarm Control Company

Justin T. Toth
Jacquelyn D. Rogers
RAY, QUINNEY & NEBEKER
36 South State Street, Suite 1400
P.O. Box 45385
Salt Lake City, Utah 84145-0385
Attorneys for EFT Architects, Inc., Colvin Engineering Associates, Inc., and Dunn Associates, Inc.

Greggory J. Savage
Blaine J. Benard
HOLME ROBERTS & OWEN, LLP
299 South Main Street, Suite 1800
Salt Lake City, Utah 84111
Attorneys for Consonus, Inc.

John L. Young
YOUNG, ADAMS & HOFFMAN, LLP
170 South Main Street, Suite 1125
Salt Lake City, Utah 84101
Attorneys for CCI Mechanical, Inc.

P. Douglas Folk
FOLK & ASSOCIATES, P.C.
One Columbus Plaza, Suite 600
3636 North Central Avenue
Phoenix, Arizona 85012
Attorneys for EFT Architects, Inc., Colvin Engineering Associates, Inc., and Dunn Associates, Inc.

Michael F. Skolnick
KIPP AND CHRISTIAN, P.C.
10 Exchange Place, Fourth Floor
Salt Lake City, Utah 84111
Attorneys for Dunn Associates, Inc.

David M. Connors
Jennifer A. Brown
LEBOEUF, LAMB, GREENE & MACRAE, LLP
136 South Main Street, Suite 1000
Salt Lake City, Utah 84101
Attorneys for NCR Corporation

John M. Alten
ULMER & BERNE, LLP
Penton Media Building
1300 East Ninth Street, Suite 900
Cleveland, Ohio 44114
Attorneys for NCR Corporation

John J. Haggerty
ULMER & BERNE, LLP
Penton Media Building
1300 East Ninth Street, Suite 900
Cleveland, Ohio 44114
Attorneys for NCR Corporation

J. Stan Sexton
Roger D. Nail
SHOOK, HARDY & BACON, LLP
2555 Grand Boulevard
Kansas City, Missouri 64108-2613
Attorneys for Ansul, Inc.

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cv-01216

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. John N Braithwaite, Esq.
PLANT CHRISTENSEN & KANELL
136 E S TEMPLE STE 1700
SALT LAKE CITY, UT 84111-2970
JFAX 9,5319747

Mr. John L Young, Esq.
YOUNG ADAMS & HOFFMAN LLP
170 S MAIN ST STE 1125
SALT LAKE CITY, UT 84101-1605
EMAIL

Blaine J. Benard, Esq.
HOLME ROBERTS & OWEN LLP
299 S MAIN ST STE 1800
SALT LAKE CITY, UT 84111-2263
EMAIL

Justin T. Toth, Esq.
RAY QUINNEY & NEBEKER
36 S STATE ST STE 1400
PO BOX 45385
SALT LAKE CITY, UT 84145-0385
EMAIL

P. Douglas Folk, Esq.
FOLK & ASSOCIATES
ONE COLUMBUS PLAZA STE 600
3636 N CENTRAL AVE
PHOENIX, AZ 85012-8503
EMAIL

Benjamin L. Hodgson, Esq.
FOLK & ASSOCIATES
ONE COLUMBUS PLAZA STE 600
3636 N CENTRAL AVE
PHOENIX, AZ 85012-8503

Christopher D.C. Hossack, Esq.
FOLK & ASSOCIATES

ONE COLUMBUS PLAZA STE 600
3636 N CENTRAL AVE
PHOENIX, AZ 85012-8503

Mr. Michael F Skolnick, Esq.
KIPP & CHRISTIAN
10 EXCHANGE PLACE FOURTH FL
SALT LAKE CITY, UT 84111-2314
EMAIL

Mr. Stephen J Trayner, Esq.
STRONG & HANNI
3 TRIAD CTR STE 500
SALT LAKE CITY, UT 84180
EMAIL

Mr. Douglas H. Patton, Esq.
DEWSNUP KING & OLSEN
36 S STATE ST STE 2020
SALT LAKE CITY, UT 84111
EMAIL

David B. Watkiss, Esq.
BALLARD SPAHR ANDREWS & INGERSOLL
201 S MAIN STE 600
SALT LAKE CITY, UT 84111-2215
EMAIL

John J. Haggerty, Esq.
ULMER & BERNE LLP
PENTON MEDIA BLDG
1300 E NINTH ST #900
CLEVELAND, OH 44114
EMAIL

John M. Alten, Esq.
ULMER & BERNE LLP
PENTON MEDIA BLDG
1300 E NINTH ST #900
CLEVELAND, OH 44114

Mr. David M Connors, Esq.
LEBOEUF LAMB GREENE & MACRAE LLP
136 S MAIN ST STE 1000
SALT LAKE CITY, UT 84101
EMAIL

Jennifer A. Brown, Esq.
LEBOEUF LAMB GREENE & MACRAE LLP
136 S MAIN ST STE 1000
SALT LAKE CITY, UT 84101
EMAIL

Jonathan R. Schofield, Esq.
PARR WADDOUPS BROWN GEE & LOVELESS
185 S STATE ST STE 1300
PO BOX 11019
SALT LAKE CITY, UT 84147
EMAIL

J. Stan Sexton, Esq.
SHOOK HARDY & BACON LLP
2555 GRAND BLVD
KANSAS CITY, MO 64108-2613

Roger D. Nail, Esq.
SHOOK HARDY & BACON LLP
2555 GRAND BLVD
KANSAS CITY, MO 64108-2613

Erick J. Roeder, Esq.
SHOOK HARDY & BACON LLP
2555 GRAND BLVD
KANSAS CITY, MO 64108-2613

FILED
CLERK, U.S. DISTRICT COURT

United States District Court
District of Utah

FEB -41 A 8: 59
DISTRICT OF UTAH

UNITED STATES OF AMERICA

vs.

Martin Valenzuela-Fimbres

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: **2:04-CR-00490-001-TC**

Plaintiff Attorney: **Karen Fojtik, AUSA**

Defendant Attorney: **Carlos Garcia, FPD**

Atty: CJA ___ Ret ___ FPD **X**

Defendant's Soc. Sec. No.: **None**

Defendant's Date of Birth: **11/22/1960**

Defendant's USM No.: **07441-081**

Defendant's Residence Address:
Mexico

Country

12/06/04
Date of Imposition of Sentence

Defendant's Mailing Address:
same

Country

THE DEFENDANT:

- ☒ pleaded guilty to count(s)
☐ pleaded nolo contendere to count(s)
which was accepted by the court.
☐ was found guilty on count(s)

COP **09/21/2004** Verdict

I of indictment

Title & Section

8 USC § 1326

Nature of Offense

Re-entry of Previously Removed Alien

Count

Number(s)

I

Entered on docket

by:
Deputy Clerk

- ☐ The defendant has been found not guilty on count(s)
☐ Count(s) (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of **10 months**

Upon release from confinement, the defendant shall be placed on supervised release for a term of **36 months**

- ☐ The defendant is placed on Probation for a period of
The defendant shall not illegally possess a controlled substance.

19

Defendant: Martin Valenzuela-Fimbres
Case Number: 2:04-CR-00490-001-TC

Page 2 of 5

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☒ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. The defendant shall not re-enter the United States illegally.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ _____, payable as follows:

☐ forthwith.

☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.

☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.

☒ other:

No fine imposed.

☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).

☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), **it is ordered that:**

☐ The interest requirement is waived.

☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☐ Restitution is payable as follows:

☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

☐ other: _____

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 100.00, payable as follows:

☒ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

Defendant: Martin Valenzuela-Fimbres
Case Number: 2:04-CR-00490-001-TC

Page 4 of 5

RECOMMENDATION

- ☒ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:

The court recommends defendant be given credit for time served while in federal custody.

CUSTODY/SURRENDER

- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE:

2-4-2005

Tena Campbell
Tena Campbell
United States District Judge

Defendant: Martin Valenzuela-Fimbres
Case Number: 2:04-CR-00490-001-TC

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

jmr

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00490

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. William L Nixon, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Carlos A. Garcia, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

KENNETH R. BROWN (#458)
ANN MARIE TALIAFERRO (#8776)
Attorneys for Defendant
BROWN BRADSHAW & MOFFAT
10 West Broadway, Suite 210
Salt Lake City, Utah 84101
Telephone: (801) 532-5297
Facsimile: (801) 532-5298

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -4 A 9:39

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

RECEIVED CLERK

JAN 12 2005

U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

VAUN PERMANN,

Defendant.

ORDER MODIFYING CONDITIONS OF
SUPERVISED RELEASE/PROBATION

Case No. 2:03CR-0086TS

Based upon the motion of the defendant, and good cause appearing,

IT IS HEREBY ordered that the original sentence of Defendant Vaun Permamn be modified to include, as a term of supervised release, five months of home confinement in lieu of placement in a community treatment center.

The Defendant shall be given credit for the days served in the Cornell facility towards his time of home confinement.

The Defendant is ordered to abide by all other conditions of the original order and any other requirements of United States Probation.

62

DATED this 3rd day of February ~~January~~ 2005

BY THE COURT:



TED STEWART
District Court Judge

MAILING CERTIFICATE

I hereby certify that a true and correct copy of the foregoing ORDER MODIFYING CONDITIONS OF SUPERVISED RELEASE/PROBATION was mailed, postage prepaid, to Trina Higgins, Assistant U.S. Attorney, 185 South State Street, #400, Salt Lake City, Utah 84111, on the 11 day of January 2005.

H:\KRB\1\2082.wpd

jmr

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cr-00086

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

/
EMAIL

United States Marshal Service
DISTRICT OF UTAH

/
EMAIL

Mr. Kenneth R. Brown, Esq.
BROWN BRADSHAW & MOFFIT
10 W BROADWAY STE 210
SALT LAKE CITY, UT 84101
JFAX 9,5325298

Trina A Higgins, Esq.
US ATTORNEY'S OFFICE

/
EMAIL

**United States District Court
for the District of Utah**

FILED
CLERK, U.S. DISTRICT COURT

**Request and Order for Modifying Conditions of Supervision
With Consent of the Offender**

(Waiver of hearing attached)

DISTRICT OF UTAH

BY: _____

Name of Offender: **Jeffrey Solovi**

Docket Number: **2:01-CR-00580-001-DKW**

Name of Sentencing Judicial Officer: **Honorable David K. Winder**

Date of Original Sentence: **November 4, 2002**

Original Offense: **Possession of a Weapon with an Obliterated Serial Number**

Original Sentence: **15 months BOP Custody/36 Months Supervised Release**

Type of Supervision: **Supervised Release**

Supervision Began: **June 18, 2003**

PETITIONING THE COURT

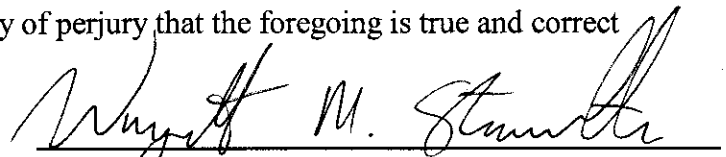
☒ To modify the conditions of supervision as follows:

The defendant shall reside in a community treatment center for a period of up to 90 days, with work release, educational release, medical release, release to attend religious services, release to participate in treatment, or other approved leave as deemed appropriate by the probation office or community treatment center.

CAUSE

The defendant represented to the Court at his sentencing that he had employment. His employment did not continue upon his release from incarceration. The defendant has spent the majority of his time at the Cornell Community Corrections Center (CCC) unemployed, and he is not financially able to leave the CCC at this time. The defendant has signed a waiver to add an up-to-90-day placement at the CCC to his supervised release conditions. The defendant and the probation office believe that this condition will help him be accountable and give him the assistance he needs to successfully complete his period of supervision.

I declare under penalty of perjury that the foregoing is true and correct



Wyatt M. Stanworth,
United States Probation Officer
February 2, 2005

THE COURT ORDERS:

- ☒ The modification of conditions as noted above
☐ No action
☐ Other



Honorable David K. Winder
Senior United States District Judge

Date: 2-3-05



**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
PROBATION AND PRETRIAL SERVICES OFFICE**

**WAIVER OF RIGHT TO HEARING PRIOR TO
MODIFICATION OF CONDITIONS OF SUPERVISION**

I have been advised by United States Probation Officer Wyatt M. Stanworth that he/she has submitted a petition and report to the Court recommending that the Court modify the conditions of my supervision in Case No.2:01-CR-00580-001-DKW. The modification would be:

The defendant shall reside in a community treatment center for a period of up to 90 days, with work release, educational release, medical release, release to attend religious services, release to participate in treatment, or other approved leave as deemed appropriate by the probation office or community treatment center.

I understand that should the Court so modify my conditions of supervision, I will be required to abide by the new condition(s) as well as all conditions previously imposed. I also understand the Court may issue a warrant and revoke supervision for a violation of the new condition(s) as well as those conditions previously imposed by the Court. I understand I have a right to a hearing on the petition and to prior notice of the date and time of the hearing. I understand that I have a right to the assistance of counsel at that hearing.

Understanding all of the above, I hereby waive the right to a hearing on the probation officer's petition, and to prior notice of such hearing. I have read or had read to me the above, and I fully understand it. I give full consent to the Court considering and acting upon the probation officer's petition to modify the conditions of my supervision without a hearing. I hereby affirmatively state that I do not request a hearing on said petition.



Jeffrey Solovi

Date



Witness:

Wyatt M. Stanworth
United States Probation Officer

jmr

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:01-cr-00580

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH
,
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

Leshia M. Lee-Dixon, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Eric D. Petersen, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Report and Order Terminating Supervised Release
Prior to Original Expiration Date

FILED
CLERK, DISTRICT COURT
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK
9:39

UNITED STATES DISTRICT COURT

for the

DISTRICT OF UTAH

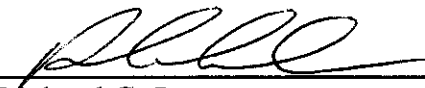
UNITED STATES OF AMERICA

v. Criminal No. 2:01-CR-00278-001-TS

SHAY BLAINE HARDY

On August 20, 2001, the defendant was sentenced to 21 months Bureau of Prisons custody followed by 36 months supervised release. The above-named defendant began his term of supervised release on March 21, 2003. The defendant has complied with the rules and regulations of supervised release and is no longer in need of supervision. He has satisfied all financial obligations ordered by the court. It is accordingly recommended that the defendant be discharged from supervision.

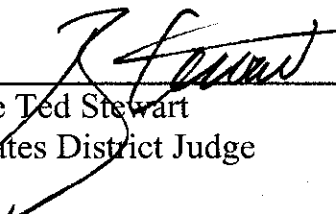
Respectfully submitted,



Richard G. Law
United States Probation Officer

Pursuant to the above report, it is ordered that the defendant be discharged from supervision and that the proceedings in the case be terminated.

Dated this 4th day of February, 2005.



Honorable Ted Stewart
United States District Judge

50

United States Probation Office
for the District of Utah

Request for Early Termination of Supervision

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB -4 A 9:39
DISTRICT OF UTAH

Name of Offender: **Shay Blaine Hardy**

Docket Number: **2:01-CR-00278-001-TS**

Name of Sentencing Judicial Officer: **Honorable Ted Stewart** BY: _____

United States District Judge DEPUTY CLERK

Date of Original Sentence: **August 20, 2001**

Original Offense: **Possession of an Unregistered Short-Barrel Rifle**

Original Sentence: **21 Months BOP Custody/36 Months Supervised Release**

Type of Supervision: **Supervised Release**

Supervision Began: **March 21, 2003**

SUPERVISION SUMMARY

On August 20, 2001, the defendant was sentenced to 21 months Bureau of Prisons custody followed by 36 months supervised release. The above-named defendant began his term of supervised release on March 21, 2003. While on supervised release, the defendant has complied with the standard and special conditions ordered by the Court. He has satisfied all financial obligations ordered by the Court. He has submitted to random drug testing with negative results. He was referred to the Intermountain Center for Cognitive Therapy (ICCT) for substance abuse treatment. On July 12, 2003, he was discharged from the ICCT after successfully completing treatment. Pursuant to the defendant's efforts to comply with the conditions of his supervised release, it is respectfully recommended that the defendant's term of supervised release be terminated. If the Court concurs, an Order is attached for signature.

If the Court desires more information or another course of action, please contact me at 975-3400, extension 2525.

I declare under penalty of perjury that the foregoing is true and correct



Richard G. Law
United States Probation Officer
February 2, 2005

Attachment

jmr

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:01-cr-00278

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Brett L. Tolman, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

RECEIVED

FEB - 3 2005

OFFICE OF
JUDGE TENA CAMPBELL

TODD UTZINGER (6047)
Attorney for Defendant
562 South Main Street, Second Floor
Bountiful, Utah 84010
Telephone: (801) 397-3131
Facsimile: (801) 397-3139

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 2 RECEIVED CLERK

DISTRICT OF UTAH
FEB - 2 2005

BY: U.S. DISTRICT COURT
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,)	ORDER STRIKING TRIAL
)	DATE AND EXCLUDING TIME
Plaintiff,)	FROM SPEEDY TRIAL ACT
)	CALCULATION
v.)	
)	
JAVIER AGUILAR RODRIGUEZ)	Case No. 02-CR-102 TC
GONZALEZ)	
)	
Defendant.)	Judge Tena Campbell

This matter is before the Court on the joint motion of the defendant and the United States to continue the trial now set for February 16, 2005, and to have the time between defendant's arraignment and any new trial date excluded from the speedy trial act calculation for the reasons stated in the motion.

For good cause shown, I find and order the following:

1. Counsel for the United States has recently been assigned to this case and needs additional time to review discovery, become familiar with the case and to prepare for

41

trial. Both parties also require additional time to pursue ongoing plea negotiations.

2. The time between defendant's arraignment and any new trial date is excluded under the Speedy Trial Act because both counsel needed that time to interview potential witnesses and pursue plea negotiations. More specifically, the time between the current trial date of February 16, 2005 and any new trial date is excluded under the Speedy Trial Act because newly appointed counsel for the United States requires additional time to prepare for trial. Also, the parties need additional time to continue plea negotiations.

3. I find that a continuance is warranted for the reasons stated above.

4. I find that the ends of justice served by the continuance outweigh the interests of the public and defendant in a speedy trial.

5. Pursuant to Title 18 sec. 3161 (h)(8)(a) and upon the joint motion of the parties, I order that the time between defendant's arraignment and any new trial date be excluded from the computation of time required under the Speedy Trial Act.

SIGNED AND DATED this 3 day of Feb, 2005

Tena Campbell

THE HONORABLE TENA CAMPBELL
Federal District Court Judge, District of Utah

3 day jury trial re-set for
4/12/05 at 8:30 a.m.

alt

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:02-cr-00102

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH
/
EMAIL

United States Marshal Service
DISTRICT OF UTAH
/
EMAIL

Lee C. Rasmussen, Esq.
RASMUSSEN MINER & ASSOCIATES
42 EXCHANGE PLACE
SALT LAKE CITY, UT 84111
EMAIL

Todd A. Utzinger, Esq.
UTZINGER & PERRETTA
562 S MAIN ST 2ND FL
BOUNTIFUL, UT 84010
EMAIL

Colleen K. Coebergh, Esq.
DRUG ENFORCEMENT ADMINISTRATION
METROPOLITAN NARCOTICS TASK FORCE
348 E SOUTH TEMPLE
SALT LAKE CITY, UT 84111
EMAIL

Diana Hagen, Esq.
US ATTORNEY'S OFFICE
/
EMAIL

SO ORDERED

Ted Stewart
TED STEWART
United States District Judge

FILED
FILED
CLERK, U.S. DISTRICT COURT
CLERK, U.S. DISTRICT COURT
2005 FEB -4 P 1:20
2005 JAN 18 A 11:05
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

FRED R. SILVESTER (3862)
SPENCER SIEBERS (8320)
SILVESTER & CONROY, L.C.
1371 East 2100 South, Suite 200
Salt Lake City, Utah 84105
Telephone (801) 532-2266

Samuel S. McHenry (5756)
672 East Vine Street, Suite 2
Salt Lake City, Utah 84107
Telephone: (801) 328-8600

Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT IN AND FOR
THE DISTRICT OF UTAH**

NATALIE CLAUSEN,

Plaintiff,

vs.

FIRE INSURANCE EXCHANGE,

Defendants.

ORDER

**PLAINTIFF'S MOTION TO REFILE
OPPOSITION TO SUMMARY
JUDGMENT**

Civil No. 2:01-CV-00726 ST

Honorable Judge Ted Stewart

Plaintiff, by and through undersigned counsel, hereby submits this Motion to Refile Plaintiff's Opposition to Defendant's Motion for Summary Judgment. Plaintiff prepared and submitted an Opposition memorandum dated January 5, 2005. Copies were mailed to the Court, to

He

opposing counsel and to plaintiff's co-counsel. A postage history is attached as Exhibit A. Plaintiff was notified by the Court, however, that the Opposition had not been received and opposing counsel also claimed to have not received the Opposition. Co-counsel received his copy on January 7, 2005.

Plaintiff, therefore, submits this Motion to Refile her Opposition memorandum with this Court and hand-deliver the same to opposing counsel. Defendant will not be prejudiced by this refiling as there remains sufficient time for reply briefing before argument. Plaintiff's counsel sincerely regrets any delay and inconvenience caused by this Motion.

DATED this 18th day of January, 2005.

SILVESTER & CONROY



Fred R. Silvester
Spencer Siebers

Attorneys for Plaintiff

EXHIBIT "A"

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:01-cv-00726

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

David A. Anderson, Esq.
PARSONS BEHLE & LATIMER
201 S MAIN ST STE 1800
PO BOX 45898
SALT LAKE CITY, UT 84145-0898
EMAIL

Mr. Aaron A. Nelson, Esq.
NELSON CHIPMAN QUIGLEY & PAYNE
215 S STATE ST STE 500
SALT LAKE CITY, UT 84111
JFAX 9,3643756

Mr. Fred R. Silvester, Esq.
SILVESTER & CONROY LC
1371 E 2100 S STE 200
SALT LAKE CITY, UT 84105
EMAIL

Samuel S. McHenry, Esq.
230 S 500 E STE 590
SALT LAKE CITY, UT 84102
EMAIL

SECRET

\\server1\b\b\billman 10011.00\mo dismiss 012405 bmb.doc

DEPUTY CLERK

U.S. DISTRICT COURT

47

dismissed with prejudice and on the merits. Plaintiff's claims against the other defendants are not part of this Order and remain before this Court for adjudication.

DATED THIS 4th day of February, 2005.


FEDERAL DISTRICT COURT JUDGE

APPROVED:


James K. Slavens

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of February, 2005, I served an unsigned copy of the foregoing **ORDER DISMISSING ALL CLAIMS AGAINST DEFENDANT DENNIS HILLMAN** on each of the following by depositing a copy thereof in the U.S. Mail, postage prepaid:

James K. Slavens
PO Box 752
Fillmore, Utah 84631

A. TODD BROWN
JACQUELINE M. YOUNT
HUNTON & WILLIAMS LLP
Bank of America Plaza
101 South Tryon Street, Suite 3500
Charlotte, NC 28280

ROBERT O. RICE
RAY QUINNEY & NEBEKER
36 South State Street, Suite 1400
P. O. Box 45385
Salt Lake City, Utah 84145-0385



Candy Charlet

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-01088

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. James K. Slavens, Esq.
PO BOX 752
FILLMORE, UT 84631
EMAIL

Robert O. Rice, Esq.
RAY QUINNEY & NEBEKER
36 S STATE ST STE 1400
PO BOX 45385
SALT LAKE CITY, UT 84145-0385
EMAIL

A. Todd Brown, Esq.
HUNTON & WILLIAMS LLP
BANK OF AMERICAN PLAZA
101 S TYRON ST STE 3500
CHARLOTTE, NC 28280

Brent M. Brindley, Esq.
BRINDLEY SULLIVAN
249 E TABERNACLE STE 102
ST GEORGE, UT 84770
EMAIL

Edwin E. Brooks
GARDNER CARTON & DOUGLAS
191 N. Wacker Drive, Suite 3700
Chicago, Illinois 60606-1698
Tel. 312 569 1425
Fax 312 569 3425

James S. Jardine (1647)
Rick B. Hoggard (5088)
RAY QUINNEY & NEBEKER
36 South State Street, Suite 1400
Salt Lake City, Utah 84111
Tel: (801) 532-1500
Fax: (801) 532-7543

Attorneys for Central DuPage Health

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DISTRICT

3M COMPANY, a Delaware corporation,

Plaintiff,

v.

CENTRAL DUPAGE HEALTH,
an Illinois not-for-profit corporation,

Defendant.

**STIPULATED ORDER FOR AN
EXTENSION OF TIME TO FILE REPLY
BRIEF**

**Judge Ted Stewart
Magistrate Judge Samuel Alba**

CASE NUMBER: 2:04CV01109 TS

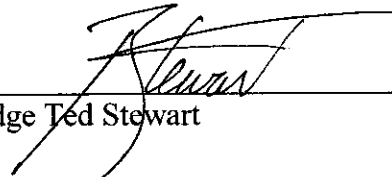
Pursuant to the stipulation of the parties shown below by the signatures of the respective counsel of record, Defendant Central DuPage Health shall have until and including Monday, February 21, 2005 in which to file its reply memorandum in support of its motion to dismiss or transfer, which is a two-week extension from the current due date of Monday, February 7, 2005.

RECEIVED CLERK
CLERK, U.S. DISTRICT COURT
2005 FEB 24 PM 1:21
U.S. DISTRICT COURT
BY: DEPUTY CLERK

15

DATED this 4th day of February, 2005.


BY THE COURT



Judge Ted Stewart

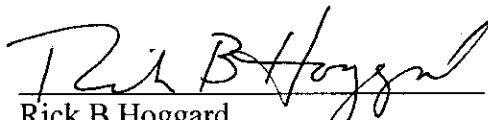
STIPULATED AS TO FORM AND CONTENT:

STOEL RIVES LLP



D. Matthew Moscon
Justin B. Palmer
Attorneys for Plaintiff

RAY QUINNEY & NEBEKER



Rick B. Hoggard
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing stipulation was mailed to the following on this 3rd day of February, 2005:

John A. Anderson
D. Matthew Moscon
Justin B. Palmer
STOEL RIVES LLP
201 South Main Street, Suite 1100
Salt Lake City, Utah 84111



Ann Thomsen

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-01109

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. John A. Anderson, Esq.
STOEL RIVES LLP
201 S MAIN ST STE 1100
SALT LAKE CITY, UT 84111-4904
EMAIL

James S. Jardine, Esq.
RAY QUINNEY & NEBEKER
36 S STATE ST STE 1400
PO BOX 45385
SALT LAKE CITY, UT 84145-0385
EMAIL

Edwin E. Brooks, Esq.
GARDNER CARTON & DOUGLAS LLP
191 N WACKER DR STE 3700
CHICAGO, IL 60606-1698

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -3 A 10:15

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

RECEIVED CLERK

FEB - 2 2005

U.S. DISTRICT COURT

RECEIVED

FEB -3 2005

OFFICE OF
JUDGE PAUL G. CASSELL

Randall B. Bateman (USB 6482)
Perry S. Clegg (USB 7831)
BATEMAN IP LAW GROUP
Judge Building, Suite 550
8 East Broadway
P.O. Box 1319
Salt Lake City, Utah, 84110
Telephone: (801) 533-0320
Facsimile: (801) 533-0323

Attorneys for Plaintiffs,
Kyle Bateman and Action Target, Inc.

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

KYLE BATEMAN, a Resident of Utah, and)
ACTION TARGET, INC., a Utah)
Corporation)

Plaintiffs,)

vs.)

BLACKWATER TARGET SYSTEMS,)
L.L.C., a Delaware)
Limited Liability Company,)

Defendant.)

**[PROPOSED] ORDER OF
DISMISSAL WITH PREJUDICE**

Case No. 2:04CV00240 PGC
Honorable Paul G. Cassell

Based on the Stipulation and Motion for Dismissal with Prejudice filed by Plaintiffs and
Defendant in this matter, and good cause appearing therefore,

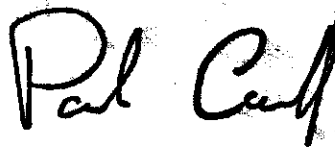
IT IS HEREBY ORDERED that the above-referenced matter is DISMISSED WITH

59

PREJUDICE. Each party is to bear its own costs.

DATED this 3 day of February, 2005.

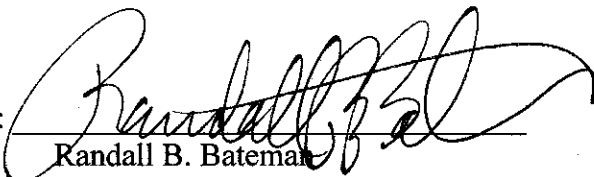
BY THE COURT:



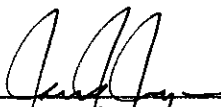
Honorable Paul G. Cassel
United States District Court Judge

APPROVED AS TO FORM:

BATEMAN IP LAW GROUP

By: 
Randall B. Bateman
Perry S. Clegg
Attorneys for Plaintiffs
Kyle Bateman and Action Target, Inc.

STRONG & HANNI

By: 
Joseph J. Joyce
Attorneys for Defendant
Blackwater Target Systems, LLC

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00240

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Randall B. Bateman, Esq.
BATEMAN IP LAW GROUP
4 TRIAD CTR STE 825
PO BOX 1319
SALT LAKE CITY, UT 84110
EMAIL

Mr. Joseph J. Joyce, Esq.
STRONG & HANNI
3 TRIAD CTR STE 500
SALT LAKE CITY, UT 84180
EMAIL

Laurin H. Mills, Esq.
NIXON PEABODY
401 9TH ST NW STE 900
WASHINGTON, DC 20004

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH CENTRAL DIVISION

FILED

CLERK, U.S. DISTRICT COURT

2005 FEB -3 A 10:16

Machan

Plaintiff,

vs.

Unum Life Ins Co

Defendant.

ORDER

Case No. 2:00-cv-00904 PGC

BY: _____
DEPUTY CLERK

This case was certified to the Utah Supreme Court on 12/17/2003 for a decision on a state law issue.

IT IS HEREBY ORDERED that the above captioned case filed be **administratively** closed and removed from the list of active pending cases. The case may be reopened upon motion by the Plaintiff or the by Defendant.

Dated this 2nd day of February, 2005.

By



PAUL G. CASSELL

United States District Judge

179

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:00-cv-00904

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mike Larsen
c/o J&M PROPERTIES
PO BOX 171106
SALT LAKE CITY, UT 84117-1106

L. Rich Humpherys, Esq.
CHRISTENSEN & JENSEN PC
50 S MAIN STE 1500
SALT LAKE CITY, UT 84144
JFAX 9,3553472

Scott M. Petersen, Esq.
FABIAN & CLENDENIN
215 S STATE STE 1200
PO BOX 510210
SALT LAKE CITY, UT 84151
EMAIL

Thomas J. Quinn, Esq.
UNUM LIFE INSURANCE COMPANY
2211 CONGRESS ST
PORTLAND, ME 04122-0590

John Meagher, Esq.
SHUTTS & BOWEN
1500 MIAMI CENTER
201 S BISCAYNE BLVD
MIAMI, FL 33131

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH CENTRAL DIVISION

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -3 A 10:16

DEPT. OF UTAH

USA

Plaintiff,

vs.

Ty Leyland

Defendant.

BY: _____
DEPUTY CLERK

ORDER

Case No. 2:04-cr-00001 PGC

An Indictment was filed in this case on 01/07/2004. An arrest warrant was issued for the defendant on 01/08/2004. The arrest warrant remains outstanding. There has been no activity in this case for over a year.

IT IS HEREBY ORDERED that the above captioned case filed be **administratively** closed and removed from the list of active pending cases. The case may be reopened upon motion by the Plaintiff or the by Defendant.

Dated this 2nd day of February, 2005.

By


PAUL G. CASSELL
United States District Judge

3

tsh

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00001

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

Vernon G. Stejskal, Esq.
DRUG ENFORCEMENT ADMINISTRATION
METROPOLITAN NARCOTICS TASK FORCE
348 E SOUTH TEMPLE
SALT LAKE CITY, UT 84111
EMAIL

United States Marshal Service
DISTRICT OF UTAH
/
EMAIL

US Probation
DISTRICT OF UTAH
/
EMAIL

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FEB - 2 2005

OFFICE OF
JUDGE PAUL G. CASSELL

RECEIVED CLERK

FILED

CLERK, U.S. DISTRICT COURT

FEB - 1 2005

2005 FEB - 3 AUS. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

CANDI COLEMAN,

Plaintiff,

vs.

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

Civil No. 2:04-CV-0222PGC

ORDER

Based upon the stipulation of the parties, IT IS HEREBY ORDERED as follows:

1. That Defendant will pay Plaintiff a total nine hundred four dollars and thirty-nine cents (\$ 904.39) for legal services under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412 and one hundred fifty dollars (\$150.00) in costs under 28 U.S.C. § 1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by her attorney in connection with this civil action in accordance with 28 U.S.C. § 2412(d) and bars any and all claims Plaintiff may have relating to EAJA fees and court costs in connection with this action.

2. That this Order will not be used as precedent in any future cases or be construed as a concession by the Defendant that the original administrative decision denying benefits to Plaintiff was not substantially justified.

3. Payment of EAJA fees will be made directly to Plaintiff's counsel, John J. Borsos, Esq.

4. That this award is without prejudice to the rights of Plaintiff's counsel to seek attorneys fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA.

DATED this 2nd day of ^{February} ~~January~~, 2005.

BY THE COURT:



Honorable Paul G. Cassell
United States District Court

tsh

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00222

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. John J. Borsos, Esq.
PO BOX 112347
SALT LAKE CITY, UT 84147-2347
EMAIL

Scott Patrick Bates, Esq.
US ATTORNEY'S OFFICE
/
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -3 A 10:16

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

DEPUTY CLERK

RANDALL K. FIELDS and PARK CITY
GROUP, a Nevada corporation fka FIELDS
TECHNOLOGIES INC.,

Plaintiffs,

vs.

THE YANKEE COMPANIES, INC., a
Florida corporation,

Defendant.

ORDER ENTERING DEFAULT
JUDGMENT AGAINST
DEFENDANT YANKEE
COMPANIES

Case No. 2:02-CV-00984

This matter is before the court on plaintiffs motion to enter default judgment against defendant Yankee Companies (#74-1). On January 13, 2005, the court issued an order to show cause as to why plaintiffs' motion should not be granted. As of the date of this order, the court has yet to receive a response to that order.

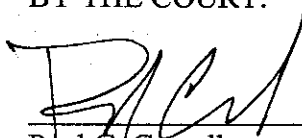
77

Therefore, for good cause appearing and in light of Yankee Companies' failure to respond to either plaintiffs' motion or the court's subsequent order to show cause, the court hereby ENTERS DEFAULT JUDGMENT against Yankee Companies. The clerk of the court is directed to close the case.

SO ORDERED.

DATED this 7th day of February, 2005.

BY THE COURT:



Paul G. Cassell
United States District Judge

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cv-00984

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Wesley D. Felix, Esq.
BENDINGER CROCKETT PETERSON GREENWOOD & CASEY
170 S MAIN STE 400
SALT LAKE CITY, UT 84101-1664
JFAX 9,5311486

Rebecca S. Parr, Esq.
BENDINGER CROCKETT PETERSON GREENWOOD & CASEY
170 S MAIN STE 400
SALT LAKE CITY, UT 84101-1664
EMAIL

Robin Corwin Campbell, Esq.
ADORNO & YOSS
350 E LAS OLAS BLVD STE 1700
FT LAUDERDALE, FL 33301
EMAIL

Mr. Arlan O Headman Jr., Esq.
COHNE RAPPAPORT & SEGAL
PO BOX 11008
SALT LAKE CITY, UT 84147-0008
EMAIL

Steven M. Katzman, Esq.
KATZMAN WASSERMAN & BENNARDINI
7900 GLADES RD STE 140
BOCA RATON, FL 33434

Mr. Julian D Jensen, Esq.
311 S STATE ST STE 380
SALT LAKE CITY, UT 84111
JFAX 9,5213731

Calvo Family Spendthrift Trust
1941 SE 51st TERRACE
OSCALA, FL 34471-5763

William A. Calvo III
1941 SE 51st TERRACE

OSCALA, FL 34471-5763

Sara Pfrommer, Esq.
2663 LITTLE KATE RD
PO BOX 3915
PARK CITY, UT 84060

D. Bruce Oliver #5120
Attorney for Plaintiff
180 South 300 West, Suite 210
Salt Lake City, Utah 84101-1490
Telephone: (801) 328-8888
Fax: (801) 595-0300

RECEIVED

FEB - 1 2005

RECEIVED CLERK

JUDGE'S COPY

2005 FEB - 1 P 5: 48

U.S. DISTRICT COURT
DISTRICT OF UTAH

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

BILL BRANDEN SPITLER

Plaintiff,

vs.

OGDEN CITY CORPORATION (Ogden
City Police Department) a Municipal
Corporation, et al.,

Defendants.

RECEIVED

FEB - 2 2005

OFFICE OF
JUDGE PAUL G. CASSELL

MOTION TO EXTEND
DISCOVERY CUT-OFF
DATE(S)

ORDER

Civil No. 1:03 CV 00119 PCG

Judge Paul G. Cassell

The Plaintiff Bill Branden Spitler, by and through counsel, D. Bruce Oliver, comes now and hereby moves this court to extend the Expert Witness Report Deadline and Discovery cut-off dates. Said motion is given because there remains outstanding discovery critical for expert review and possible additional discovery being recognized after Plaintiff's expert reviews the discovery responses once received. The Plaintiff has neither requested nor obtained a previous extension. The due-date for Plaintiff's Expert Witness report was due today and this is a timely request. Plaintiff has been examined and has received treatment from two physicians, one Dennis H. Smith, M.D. and the other, Mohammed Sadiq, M.D. It is unclear from a review of medical records which one is retained as an expert for trial purposes. Plaintiff's

19

counsel requests thirty (30) days to confer with both physicians to avoid identifying the wrong physician as the expert retained in this matter for litigation purposes. Both physicians have been contacted and neither has returned counsel's call as of this date.

Based upon the foregoing, Plaintiff requests a thirty-day enlargement of time for both the expert report disclosures of today's date and of the Defendant's deadline March 1, 2005.

Wherefore Plaintiff respectfully requests that the cut-off date for Expert Reports be extended from the present date to March 3, 2005 and April 2, 2005 respectively.

Dated this 1st day of February, 2005.



D. BRUCE OLIVER
Attorney for Plaintiff

SO ORDERED



PAUL G. CASSELL
United States District Judge

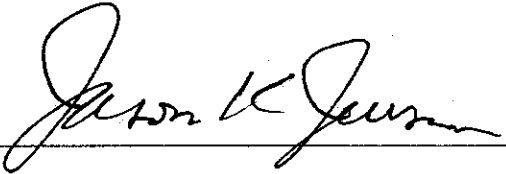
Date

2/2/05

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the foregoing **MOTION**
FOR ENLARGEMENT, via U.S. Mail, postage prepaid, to:

Allan L. Larson
SNOW, CHRISTENSEN & MARTINEAU
Attorneys for Defendants
10 Exchange Place, Eleventh Floor
PO Box 45000
Salt Lake City, Utah 84145



tsh

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:03-cv-00119

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

Mr. David B Oliver, Esq.
180 S 300 W, #210
Salt Lake City, UT 84101-1218
EMAIL

Mr. Allan L Larson, Esq.
SNOW CHRISTENSEN & MARTINEAU
10 EXCHANGE PLACE
PO BOX 45000
SALT LAKE CITY, UT 84145-5000
EMAIL

FILED
CLERK, U.S. DISTRICT COURT RECEIVED CLERK

2005 FEB -3 A 10: 16

2005 FEB -1 P 5: 23

SCOTT D. CHENEY (6198)
PETER L. ROGNLIE (4131)
Office of the Utah Attorney General
Attorneys for Defendants
160 East 300 South, Sixth Floor
P.O. Box 140856
Salt Lake City, Utah 84114-0856
Telephone: (801) 366-0100
Facsimile: (801) 366-0150

DEPUTY CLERK

BY: _____
DEPUTY CLERK

U.S. DISTRICT COURT
DISTRICT OF UTAH

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

DAVID LYNN WILLIAMS; INNA
BRIGGS; JOSEPH LUKE WILLIAMS;
JILL NICHOLE WILLIAMS; SARAH
WILLIAMS; THOMAS DUNCAN
WILLIAMS,

Plaintiffs,

v.

JEFF BIGLER; STATE OF UTAH
HIGHWAY PATROL; CITY OF CEDAR
CITY, UTAH; CEDAR CITY POLICE
DEPARTMENT; STATE OF UTAH;
UTAH DEPARTMENT OF PUBLIC
SAFETY; MURRAY SUTTLEMYER;
AND DOES 1-100,

Defendants.

**ORDER GRANTING AN
ENLARGEMENT OF TIME FOR THE
UTAH DEFENDANTS AND TROOPER
BIGLER TO ANSWER OR RESPOND
TO PLAINTIFFS' LAWSUIT**

Case No. 2:04CV1143 PGC

Judge Paul G. Cassell

RECEIVED
FEB - 2 2005
OFFICE OF
JUDGE PAUL G. CASSELL

Based upon the parties' *Stipulated Motion for an Enlargement of Time for the Utah Defendants and Trooper Bigler to Answer or Respond to Plaintiffs' Lawsuit*, and good cause appearing therefore, the Court now enters the following order:

11

The parties' stipulated motion is GRANTED. The Utah Defendants and defendant Trooper Bigler shall file their answers or other responses to the *Complaint* or the anticipated amended complaint on or before March 1, 2005.

DATED this 2nd day of February, 2005.

BY THE COURT:



JUDGE PAUL CASSELL
United States District Judge

Approved as to form and content:



MICHAEL W. ISBELL
Attorney for Plaintiffs

CERTIFICATE OF MAILING

I certify that a true and correct copy of the foregoing **ORDER GRANTING AN
ENLARGEMENT OF TIME FOR THE UTAH DEFENDANTS AND TROOPER
BIGLER TO ANSWER OR RESPOND TO PLAINTIFFS' LAWSUIT** was sent by United
States mail, postage prepaid, this 1st day of February, 2005, to:

Michael W. Isbell
Isbell Law Office
2202 North Main Street, Suite 104
Cedar City, Utah 84720

William L. Bernard, P.C.
Scarth & Dent
141 North Main
P.O. Box 1070
Cedar City, Utah 84721

A handwritten signature in black ink, appearing to be "K. L.", is written over a horizontal line.

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-01143

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

William L. Bernard, Esq.
2202 N MAIN ST STE 303
PO BOX 10770
CEDAR CITY, UT 84721

Michael W. IsBell, Esq.
ISBELL LAW OFFICE
2202 N MAIN STE 104
CEDAR CITY, UT 84720

Scott D. Cheney, Esq.
UTAH ATTORNEY GENERAL'S OFFICE
LITIGATION UNIT
160 E 300 S 6TH FL
PO BOX 140856
SALT LAKE CITY, UT 84114-0856
EMAIL

Mr. Dennis C Ferguson, Esq.
WILLIAMS & HUNT
257 E 200 S STE 500
PO BOX 45678
SALT LAKE CITY, UT 84145-5678
EMAIL

2005 FEB -3 A 10:15

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

DIS. CL. UTAH
DEPUTY CLERK

BENNET LIN and JULIAN LIN

Plaintiff,

vs.

PAUL C. COX, a Utah defendant, and
NATHANIEL B. KNIGHT, a Utah defendant,
Defendant.

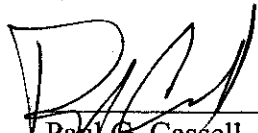
ORDER GRANTING MOTION FOR
ENTRY OF FINAL JUDGMENT

Case No. 2:04-CV-00647PGC

The plaintiff's motion for entry of final judgment pursuant to Rule 54(b) is hereby GRANTED (#24-1). The underlying motion for summary judgment was unopposed. The court sees no reason why the order granting summary judgment (#20-1) should not be made final.

DATED this 2nd day of February, 2005.

BY THE COURT:


Paul G. Cassell
United States District Judge

27

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00647

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Matthew N. Evans, Esq.
HOLME ROBERTS & OWEN LLP
299 S MAIN ST STE 1800
SALT LAKE CITY, UT 84111-2263
EMAIL

Mr. Mark E Arnold, Esq.
ARNOLD & WIGGINS
57 W 200 S STE 105
SALT LAKE CITY, UT 84101

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

FILED

CLERK, U.S. DISTRICT COURT

February 3, 2005 (9:22am)

DISTRICT OF UTAH

GIBBONS

Plaintiff,

vs.

LAMBERT, et al.

Defendants.

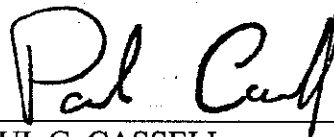
ORDER WITHDRAWING REFERENCE

Civil No. 2:02-CV-01244PGC

IT IS ORDERED that the reference pursuant to 28 U.S.C. § 636(b)(1)(A) to Magistrate Judge Alba entered March 13, 2003 is hereby withdrawn.

DATED this 3rd day of February, 2005.

BY THE COURT:



PAUL G. CASSELL

United States District Judge

223

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cv-01244

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Donald H. Hansen, Esq.
SALT LAKE COUNTY ATTORNEYS OFFICE
2001 S STATE ST STE 3400
SALT LAKE CITY, UT 84190
EMAIL

Mr. T. J. Tsakalos, Esq.
SALT LAKE COUNTY ATTORNEYS OFFICE
2001 S STATE ST STE 3400
SALT LAKE CITY, UT 84190
EMAIL

Mr. John P Soltis, Esq.
COUNTY OFFICE OF LEGAL COUNSEL
2001 S STATE STE 3400
SALT LAKE CITY, UT 84190-1200
EMAIL

Mr. Dennis C Ferguson, Esq.
WILLIAMS & HUNT
257 E 200 S STE 500
PO BOX 45678
SALT LAKE CITY, UT 84145-5678
EMAIL

Darwin L. Overson, Esq.
OVERSON & SIMMS LLC
215 S STATE ST STE 960
SALT LAKE CITY, UT 84111
EMAIL

Mr. Jeffrey Robinson, Esq.
ROBINSON & SHEEN LLC
215 S STATE STE 960
SALT LAKE CITY, UT 84111
JFAX 9,3590259

S. Austin Johnson
JOHNSON LAW FIRM, P.C.
204 East 860 South
Orem, UT 84058
(801) 426-7900
fax (801) 426-7733

Attorney for Defendant Atandi

United States District Court
District of Utah

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -4 P 12: 28

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

RECEIVED CLERK

FEB - 4 2005

U.S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	ORDER FOR CONTINUANCE
)	
v.)	Case No. 2:02CR515 DAK
)	
Denis Atandi,)	Hon. Judge Kimball
)	
Defendant.)	
)	

THIS MATTER coming before the Court on the motion for a continuance by both counsel, and the Court being fully apprised in the premises and finding good cause;

IT IS HEREBY ORDERED that the matter presently scheduled for jury trial on February 7 and 8, 2005, shall be continued;

IT IS FURTHER ORDERED that any time granted under this continuance shall not be counted under the Speedy Trial Act.

IT IS SO ORDERED.

2/4/2005
[Signature]
Hon. Dale Kimball
District Court Judge

Approved as to form:

Approved by telephone
David Backman, Esq. 2/3/05
Assistant U.S. Attorney *[Signature]*

LHe

tsh

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cr-00515

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

S. Austin Johnson, Esq.
JOHNSON LAW FIRM
PO BOX 870880
OREM, UT 84097
EMAIL

David F. Backman, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB -41 P 2:18

DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

RIDDLE & ASSOCIATES, P.C., a Utah
corporation, and JESSE RIDDLE, an
individual,

Plaintiffs,

vs.

CHRISTOPHER W. LIVINGSTON, ESQ.,
an individual, GAIL D. KUEHN, an
individual, and MICHELLE HOLLEY, an
individual,

Defendants.

ORDER DENYING DEFENDANT'S
MOTION TO STRIKE

Case No. 2:04-CV-00451PGC

District Judge Paul G. Cassell

Magistrate Judge David Nuffer

This matter is before the court on defendant Christopher W. Livingston's motion to strike¹ portions of the complaint under rule 12(f) of the Federal Rules of Civil Procedure. Defendant argues that language used in paragraphs 66 and 67 of the complaint is "scandalous" and should therefore be stricken.²

Paragraphs 66 and 67 of the complaint state:

66. On March 11, 2004 at 2:53 pm (MST) Defendant Livingston returned Mr. Woods phone call. During this call Defendant Livingston reiterated the

¹ Defendant Livingston's Motion to Strike Scandalous Matter per Fed. R. Civ. P. 12(f), docket no. 3.

² *Id.* at 2-4.

38

information that he left in his voice mail, and attempted to argue that "R&A has no compliance" and that R&A "are frauds and are committing crimes." Realizing that Defendant Livingston did not call to discuss the matter or negotiate but was only in the mood to argue, Mr. Wood terminated the call by telling Defendant Livingston that he was "full of shit."

67. R&A stands by the opinion expressed by Mr. Wood, and have taken this action, and will take additional actions to expose Mr. Livingston as a fraud.

Under Rule 12(f), the court may strike "from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter."³ However, the power to strike is rarely used.

[T]here appears to be general judicial agreement, as reflected in the extensive case law on the subject, that [motions to strike] should be denied unless the challenged allegations have no possible relation or logical connection to the subject matter of the controversy and may cause some form of significant prejudice to one or more of the parties to the action.⁴

Defendant concedes that the statement "is relevant and material, since this phrase is commonly understood to mean that the speaker considers the recipient to be untruthful."⁵

Defendant further states that he "must confess that he personally finds the Plaintiff's turn of phrase to be rather more amusing and self-defeating than truly offensive."⁶

After reviewing the complaint, the court finds, taken in context, paragraph 66 is not scandalous or immaterial, but simply purports to describe an actual event giving rise to this action.

³ Fed. R. Civ. P. 12(f).

⁴ 5C Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 1382.

⁵ Motion at 2.

⁶ *Id.* at 3.

ORDER

IT IS HEREBY ORDERED that Defendant Livingston's Motion to Strike⁷ is DENIED.

DATED this 4th day of February 2005.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00451

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Denver C. Snuffer Jr., Esq.
NELSON SNUFFER DAHLE & POULSEN
10885 S STATE ST
SANDY, UT 84070
JFAX 9,5761960

Jesse L. Riddle, Esq.
RIDDLE & ASSOCIATES PC
11778 S ELECTION DR STE 240
DRAPER, UT 84020-6808

Christopher W. Livingston
2154 DOWD DAIRY RD
WHITE OAK, NC 28399

Blair R. Jackson, Esq.
JACKSON WALTER PLLC
10421 S JORDAN GATEWAY STE 630
SOUTH JORDAN, UT 84095
EMAIL

Michelle Holley
6524 MONTCREST DR
CHARLOTTE, NC 28217

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
Central Division for the District of Utah

FILED
DISTRICT COURT
2005 FEB -4 P 2:09

JUDY L. JEHL,

Plaintiff,

vs.

KENTRUX, INC., et al.,

Defendants.

SCHEDULING ORDER

Case No. 2:04-CV-802 TC

District Judge Tena Campbell

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel. The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for February 9, 2005, at 2:30 p.m. is VACATED.

****ALL TIMES 4:30 PM UNLESS INDICATED****

- | | | |
|----|--|----------------------|
| 1. | PRELIMINARY MATTERS | <u>DATE</u> |
| a. | Was Rule 26(f)(1) Conference held? | <u>Yes</u> |
| b. | Has Attorney Planning Meeting Form been submitted? | <u>Yes</u> |
| c. | Was 26(a)(1) initial disclosure completed? | <u>2/7/05</u> |
| 2. | DISCOVERY LIMITATIONS | <u>NUMBER</u> |
| a. | Maximum Number of Depositions by Plaintiff(s) | <u>20</u> |
| b. | Maximum Number of Depositions by Defendant(s) | <u>20</u> |
| c. | Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties)
*except each liability expert may continue for 14 hrs. over 2
consecutive days. | <u>7*</u> |
| d. | Maximum Interrogatories by any Party to any Party | <u>25 ea. party</u> |
| e. | Maximum requests for admissions by any Party to any
Party | <u>25 ea. party</u> |
| f. | Maximum requests for production by any Party to any
Party | <u>25 ea. party</u> |

14

DATE

3. AMENDMENT OF PLEADINGS/ADDING PARTIES²

- a. Last Day to File Motion to Amend Pleadings 5/1/05
- b. Last Day to File Motion to Add Parties 5/1/05

4. RULE 26(a)(2) REPORTS FROM EXPERTS³

- a. Plaintiff 9/1/05
- b. Defendant 10/1/05
- c. Counter Reports per Rule 26

5. OTHER DEADLINES

- a. Discovery to be completed by:
 - Fact discovery 9/1/05
 - Expert discovery 11/30/05
- b. *(optional)* Final date for supplementation of disclosures and discovery under Rule 26 (e)
- c. Deadline for filing dispositive or potentially dispositive motions 12/30/05

6. SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION

- a. Referral to Court-Annexed Mediation N
- b. Referral to Court-Annexed Arbitration N
- c. Evaluate case for Settlement/ADR on 5/1/05
- d. Settlement probability:

7. TRIAL AND PREPARATION FOR TRIAL:

- a. Rule 26(a)(3) Pretrial Disclosures⁴
 - Plaintiffs 3/24/06
 - Defendants 4/7/06
- b. Special Attorney Conference⁵ on or before 4/21/06
- c. Settlement Conference⁶ on or before 4/21/06

d.	Final Pretrial Conference		3:00 p.m.	5/8/06
e.	Trial	<u>Length</u>	<u>Time</u>	<u>Date</u>
	i. Bench Trial			
	ii. Jury Trial	<u>7 days</u>	<u>8:30 a.m.</u>	<u>5/30/06</u>

8. **OTHER MATTERS:**

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 4 day of February, 2005.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).
2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).
3. The identity of experts and the subject of their testimony shall be disclosed as soon as an expert is retained or, in the case of an employee-expert, as soon as directed to prepare a report.
4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.
5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.
6. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

United States District Court
for the
District of Utah
February 4, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00802

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

D. David Lambert, Esq.
HOWARD LEWIS & PETERSEN
120 E 300 N
PO BOX 1248
PROVO, UT 84603
EMAIL

Shelley B. Don, Esq.
DON HILLER & GALLEHER PC
1737 GAYLORD ST
DENVER, CO 80206

Robert C. Douglas Jr, Esq.
LAW OFFICE OF ROBERT C DOUGLAS
16506 E ALAMO PL
CENTENNIAL, CO 80015

Mr. Jeffrey D Eisenberg, Esq.
EISENBERG & GILCHRIST
900 PARKSIDE TOWER
215 S STATE ST
SALT LAKE CITY, UT 84111
EMAIL

Ms. Barbara K Berrett, Esq.
BERRETT & ASSOCIATES
50 S MAIN STE 530
SALT LAKE CITY, UT 84144
EMAIL